PREFACE

This volume of the Delta Municipal Code contains the Delta Municipal Code, 1988, as adopted by Ordinance #4, 1988, as such has been amended through Ordinance #16, 2012.

City of Delta

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GENERAL PROVISIONS

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1.04.010 Definitions. The following words and phrases, whenever used in this Code, shall be construed as defined in this Section unless from context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words and phrases:

A. "City" and "town" each mean the City of Delta, Colorado, or the area within the territorial limits of the City of Delta, and such territory outside the City of Delta over which the City has jurisdiction or control by virtue of any constitutional or statutory provision.

B. "Council" means the City Council of the City of Delta. "All its members" or "all Councilmembers" means the total number of Councilmembers holding office.

C. "County" means County of Delta.

D. "Law" means applicable federal law, the Constitution and statutes of the State of Colorado, the ordinances of the City of Delta, and when appropriate, any and all rules and regulations which may be promulgated thereunder.

E. "May" is permissive.

F. "Month" means calendar month.

G. "Must" and "shall" are each mandatory.

H. "Oath" includes an affirmation or declaration in all cases in which by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

I. "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, of the whole or a part of such building or land.

J. "Person" includes a natural person, joint venture, joint stock company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

K. "Personal property" includes money, goods, chattels, things in action and evidence of debt.

L. "Preceding" and "following" mean next before and next after, respectively.

M. "Property" includes real and personal property.

N. "Real property" includes lands, tenements and hereditaments.

O. "Sidewalk" means that portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

P. "State" means the State of Colorado.

Q. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this State.

R. "Tenant" or "occupant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.

S. "Written" includes printed, typewritten, mimeographed, multigraphed, or otherwise reproduced in permanent visible form.

T. "Year" means a calendar year. (Ord. 18, §1, 1983)

1.04.020 Title of office. Use of a title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the City. (Ord. 18, §2, 1983)

1.04.030 Interpretation of language. All words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning

in the law shall be construed and understood according to such peculiar and appropriate meaning. (Ord. 18, §3, 1983)

1.04.040 Grammatical interpretation. The following grammatical rules shall apply in this Code, unless it is apparent from the context that a different construction is intended:

A. Gender. Each gender includes the masculine, feminine and neuter genders.

B. Singular and Plural. the singular number includes the plural and the plural includes the singular.

C. Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable. (Ord. 18, §4, 1983)

1.04.050 Acts by agents. When an act is required by an ordinance or Section of this Code to be performed by a person not an employee of the City, the same being such that it may be done as well by an agent of the person as by the principal, such requirement shall be construed to include all such acts performed by an authorized agent within the scope of his agency. (Ord. 18, §5, 1983)

1.04.060 Prohibited acts include causing, permitting. Whenever in this Code any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission. (Ord. 18, §6, 1983)

1.04.070 Computation of time. Except when otherwise provided, the time within which act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a legal holiday, in which case it shall also be excluded. Legal holiday, as used herein, shall include New Years Day, Washington's Birthday, Memorial Day, Independent Day, Labor Day, Veterans Day (November 11), Thanksgiving Day and Christmas Day. (Ord. 18, §7, 1983)

1.04.080 Construction. The provisions of the ordinances of the City and of this Code, and all proceedings thereunder, are to be constructed with a view to effect their objects and to promote justice. (Ord. 18, §8, 1983)

1.04.090 Repeal shall not revive any ordinances. The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinance which has been repealed thereby. (Ord. 18, §9, 1983)

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1.08.010 General penalty.

A. It shall be unlawful to violate any provision of the Delta Municipal Code, City ordinances, or any code or regulation adopted by reference. Any person convicted of a violation of any provision of the Delta Municipal Code, any ordinance or any code adopted by reference, may be punished by a fine in an amount not to exceed one thousand dollars ($1,000.00) or by imprisonment in jail for a period of not more than one (1) year, or by both such fine and imprisonment, unless a lower maximum sentence is specified.

B. Provided, however, no person under the age of eighteen (18) years may be sentenced to any period of imprisonment in excess of ten (10) days, except for traffic offenses.

C. A separate offense shall be deemed committed upon each day any violation continues. (Ord. 3, §1, 1987; Ord. 18, §1, 1997)

1.08.020 Costs. Any person found guilty of any violation following a trial to the court shall be assessed court costs in the amount of $15.00. Costs shall be $45.00 for conviction following a jury trial. Any person entering a plea of guilty or nolo contendere to a complaint shall be assessed court costs in the amount of $5.00. These costs shall not be suspended by the court. (Ord. 3, §1, 1987)

1.08.030 Sentencing. The Municipal Court, except as expressly limited by specified maximum or minimum sentences and costs, shall have the discretion to sentence persons in any lawful manner, including acceptance of deferred sentence and deferred prosecution stipulations, and may suspend all or part of any fine or jail sentence or impose probation on such terms as the court deems appropriate. (Ord. 3, §1, 1987)

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2.04.030 Place of meetings. Regular meetings of the Council shall be held in the Council Chambers in City Hall. Special meetings shall be held at the same place as regular meetings unless the Mayor or Councilmen calling a special meeting designate another place within the City. (Prior Code, §1-3)

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2.44.020 Community Development Department established. There is hereby established within the City's administrative organization a Department of Community Development, which shall include those divisions, offices, departments and agencies as designated from time to time by the City Manager, with the approval of the City Council (Ord. 22 §1, 1999)

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Chapter 2.64

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Sections:

2.64.010 Definitions. As used in this Chapter, the following words, terms and phrases shall have the following meanings, except where the context clearly indicates otherwise:

A. "Board and commission member" shall mean any person duly appointed by the Council to any board or commission of the City as authorized in City Charter Section 9, but shall not include any person who is a duly appointed commissioner of the Delta Housing Authority.

B. "City official" shall mean a Councilmember, an employee or a board and commission member.

C. "Councilmember" shall mean a member of the City Council.

D. "Employee" shall mean each compensated person in the service of the City who is designated as an employee in the City's personnel rules and regulations, but shall not include any person providing services for the City who is considered for federal income tax purposes to be an independent contractor.

E. "Gift" shall mean the transfer of a thing of value by one person to another person without the person transferring the thing of value receiving in return lawful compensation or consideration of equal or greater value from the person receiving the thing of value. However, a "gift" shall not mean anything of value given to a person by a local, state or the federal government as authorized by law.

F. "Person" shall mean any individual, corporation, business trust, estate, trust, limited liability company, partnership, labor organization, association, political party, committee, or other legal entity.

G. "Thing of value" shall mean any tangible or intangible having a market value, including, without limitation, money,

real property, personal property, services, loans of money or property, favors, gratuities, rewards, awards, grants, scholarships, discounts, promises of future employment, honoraria, event tickets, travel, lodging, meals, and the forbearance and forgiveness of debt. (Ord. 1, §1, 2007)

2.64.020 Prohibited gifts. Unless permitted under City Code Section 2.64.030, a City official shall not solicit or accept any gift from any person either directly or indirectly through the City official's spouse or dependent child, which gift the City official knows or which a reasonable person in the City official's position should know under the circumstances, is either:

A. a gift that would tend to improperly influence that City official to depart from the faithful and impartial discharge of his or her public duties; or

B. a gift being solicited or given for the primary purpose of rewarding the City official for an official action he or she has taken. (Ord. 1, §1, 2007)

2.64.030 Permitted gifts. The gift prohibitions of Section 2.64.020 shall not apply to City officials with respect to the following permitted gifts:

A. campaign contributions as authorized by law;

B. a non-monetary award, publicly presented, in recognition of public service;

C. gifts similarly available to the general public;

D. educational scholarships and grants available to members of the general public similarly situated;

E. grants and services provided for medical, respite or hospice care or other social welfare needs available to members of the general public similarly situated;

F. an occasional, unsolicited gift having a fair market value of twenty-five dollars ($25) or less;

G. unsolicited informational material, publications or subscriptions related to the City official's performance or his or her official duties;

H. an unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

I. payment of or reimbursement for actual and necessary expenditures for registration, travel, lodging and meals for attendance at a convention, training seminar, or other meeting at which the City official is scheduled to participate as a representative of the City or to attend as part of his or her official duties;

J. an occasional, unsolicited opportunity to participate in a business meeting or social function where a meal is served and/or entertainment is provided if the City official's attendance would not be considered extraordinary when viewed in light of the position held by the City official;

K. payment received by a Councilmember for a speech, appearance or publication required to be reported by the Councilmember pursuant to C.R.S. 24-6-203;

L. gifts received by a Councilmember or a board and commission member arising from his or her employment and that is unrelated to his or her official City duties; and

M. gifts received by an employee from the City as authorized in the City's personnel rules and regulations, and any gifts received by an employee arising from his or her non-City employment and that is unrelated to his or her official City duties. (Ord. 1, §1, 2007)

2.64.040 Violations.

A. It shall be unlawful for any City official to violate any provision of this Chapter. Proof of a violation shall be established by a preponderance of the evidence as presented at trial.

B. Any City official determined by the Municipal Court to have violated any provision of this Chapter shall be deemed to have committed a civil infraction and shall be punished by a civil fine not to exceed one thousand dollars ($1,000). In addition to any civil fine imposed, a judgment in the amount of twice the fair market value of the prohibited gift received shall also be entered by the Municipal Court against the City official. If the City official fails to pay the total judgment amount entered for the civil fine and for twice the fair market value of the prohibited gift within thirty (30) days of the entry of the final judgment, the City may pursue any legal means available to it for the collection of the judgment. (Ord. 1, §1, 2007)

Chapter 2.68

ELECTIONS

Sections:

2.68.010 Precinct No. 1. All of that portion of the City lying east of Main Street and north of Sixth Street in the City is designated as Precinct No. 1 for all general and special municipal elections hereafter held in the City. (Prior Code, §8-1)

2.68.020 Precinct No. 2. All of that portion of the City lying west of Main Street is designated as Precinct No. 2 for all general and special municipal elections hereafter held in the City. (Prior Code, §8-2)

2.68.030 Precinct No. 3. All of that portion of the City lying east of Main Street and south of Sixth Street in the City is designated as Precinct No. 3 for all general and special municipal elections hereafter held in the City. (Prior Code, §8-3)

2.68.040 Polling places. The polling places in each precinct shall be in such places as the City Council may from time to time designate. (Prior Code, §8-4)

2.68.050 Registration books. The City Clerk shall prepare separate registration books for each of the precincts to contain the names of all duly qualified registered electors as such electors are now registered in his office. (Prior Code, §8-5)

2.68.060 Write-in affidavits of intent. No write-in vote for any municipal office shall be counted at any election unless an Affidavit of Intent has been filed with the City Clerk by the person whose name is written in twenty days before the day of the election indicating that such person desires the office and

is qualified to assume the duties of that office if elected. (Ord. 19, §1, 1981; Ord. 4, §1, 1992)

2.68.080 Circulation of nomination petitions in mail ballot elections. Notwithstanding any contrary time limitations imposed by CRS 31-10-302, nomination petitions for candidates in mail ballot elections may be circulated and signed beginning on the seventieth day, and ending on the fiftieth day, prior to the day of election. At any time at least forty-two days before the day of election, any such nomination petition may be amended to correct or replace those signatures which the clerk finds are not in apparent conformity with the requirements of said CRS 31-10-302. The time frames allowed for the mailing of ballot packages under CRS 1-7.5-107(3)(a) shall remain unchanged. (Ord. 21, 2007)

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2.72.010 Officers and employees--Number and classes--Compensation. The Council, by motion, resolution or ordinance, may regulate the number and classes of offices and positions of employment in the various departments, offices and agencies of the City government; and by resolution may determine or regulate compensation to be paid to officers and employees, as provided by Section 12(5) of the City Charter. (Prior Code, §1-29)

2.72.020 Bonds of personnel. Except as otherwise provided by the Charter, the Council by resolution shall determine what personnel shall be bonded and the amounts of such bonds, as provided by Section 12(5) of the City Charter. Bonds shall be approved by the Council and filed with the City Clerk, as provided by Section 138 of the City Charter. (Prior Code, §1-30)

2.72.030 Oath or affirmation of office. Every officer or salaried employee shall take and file the oath or affirmation prescribed by Section 138 of the City Charter before he enters upon his duties. (Prior Code, §1-31)

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UNCLAIMED INTANGIBLE PROPERTY

Sections:

2.74.010 Unclaimed property. Any intangible property, including any income or increment derived therefrom less any lawful charges or other amounts due the City, that is held by or under control of the City, which has not been claimed by its owner for a period of more than one year after it becomes payable or distributable, shall be disposed of in accordance with the procedures set out in this Chapter. (Ord. 6 §1, 1992)

2.74.020 Procedures.

A. Prior to the disposition of any unclaimed property having an estimated value of $50.00 or more, the City shall send a notice to the owner's last known address, if any, as shown on the records of the City by certified mail, return receipt requested.

B. Prior to the disposition of any unclaimed property having an estimated value of $50.00 or less, or property concerning which no address is shown in City records for the owner, the City shall cause a notice to be published in a newspaper of general circulation in the City.

C. The notice required pursuant to Subsection (A) or (B) above shall describe the property, the name of the perceived owner, if known, the amount or estimated value of the property, and if available the purpose for which the property was deposited or held. The notice shall state that if the owner fails to submit a written claim to the City within sixty days of the date of mailing or publication, the property shall become the sole property of the City and any claim of the owner shall be forfeited.

D. If no such claim is received within said sixty days, the property shall become the sole property of the City and any claim of the owner to the property shall be deemed forfeited.

E. If the City receives a written claim within sixty days, the City shall evaluate the claim and give written notice to the claimant within ninety days thereafter whether the claim has been accepted or denied in whole or in part. The City may investigate the validity of the claim and may request further supporting documentation from the claimant prior to resolving the matter.

F. In the event there is more than one claimant for the same property, the City may, in its sole discretion, resolve the claim in any appropriate manner.

G. In the event all claims are denied, the property shall become the property of the City and any claim of the owner of such property shall be deemed forfeited.

H. The City Manager is hereby authorized to adopt additional regulations for the administration of this Chapter as deemed appropriate. (Ord. 6 §1, 1992)

Chapter 2.75

PREFERENCES FOR LOCAL CONTRACTORS BIDDING ON CITY PROJECTS

Sections:

2.75.010 General Application.

Except as otherwise provided in this Chapter, whenever competitive bidding is required by law for any contract involving materials, services and/or labor furnished to the City of Delta, preference shall be given to each qualified local business in the manner more particularly described in this Section.

A. Definition of Qualified Local Business: A qualified local business means an individual or entity who, at the time of submitting a bid for a contract relating to a City of Delta purchase or work project, (I) currently maintains one or more fixed business offices or taxable distribution points located within Delta County, Colorado, (2) has a pre-established mailing address, other than a mere post office box, also located in Delta County, Colorado and (3) employs an adequate number of local residents to perform the preponderance of work required by the pertinent contract for supplying materials, services and/or labor to the City.

B. Award of Specific Contracts: In the course of evaluating bids or proposals pertaining to any contract for the purchase or lease of supplies, materials, equipment, or other personal property and/or any contract for labor to be performed on a public works project and/or any professional services contract, the City will strive to extend an eight percent (8%) preference, but not to exceed One Hundred Thousand Dollars ($100,000.00), to each otherwise eligible contract bidder who sufficiently demonstrates ownership of a qualified local business in the related bid proposal documents. It is provided, however, that when applying this provision to specific contract settings, the City will continue to give appropriate consideration and weight to all other relevant information and factors customarily used for comparison of bids in the process of selecting the lowest responsible bidder including, but not limited to the following:

(1) the relative quality of any proposed material items and their conformity with pertinent contract specifications, (2) the relative benefit to the City of proposed delivery and discount terms and conditions and proposed terms of warranty and repair for material items, (3) the overall experience, qualification and reputation of the bidder for performance of similar contracts, etc.

2.75.020 Exceptions: The following contracts shall not be eligible for preferences contemplated by Section 2.75.010:

A. Contracts for which application of the provisions of said Section would be prohibited by State or Federal law or regulations.

B. Contracts funded in whole or in part by grants, donations or gifts to the City of Delta, the conditions of which prohibit or discourage preferences of the sort allowed by Section 2.75.010.

C. Contracts for redressing emergency conditions in the City of Delta where any delay in completion or performance of the contract would jeopardize public health, safety or welfare, or where in the judgment of the City Manager, or his or her designee, the operational effectiveness of a significant City of Delta function would be seriously impaired if the contract were not entered into expeditiously without resort to competitive bidding processes.

D. Contracts with any single or sole source supplier for supplies, material, equipment or other personal property.

E. Any other contract setting in which the City determines the application of a preference would be fundamentally adverse to the City of Delta's interests.

2.75.030 Penalties For Providing False Bid Information

If the City Manager, or his or her designee, determines that a person or entity submitting a bid for a City contract has made an intentional misstatement of fact to obtain a contract preference under this Chapter, the City of Delta may pursue all consistent legal and/or equitable remedies afforded by Colorado law and, in addition, may impose the following penalties:

A. A finding of such an intentional misstatement by a contract bidder shall furnish a basis for disqualifying all current and future bids on City contracts from that bidder and

his or its related business for a period of at least one full year from the date of the finding.

B. An intentional misstatement made to obtain a price preference under this Chapter shall subject the recipient of any such price preference to a civil penalty of treble the amount of the price preference actually received, or Three Hundred Dollars ($300.00), whichever is greater. The City may collect such penalty, plus all reasonable attorney fees and costs incurred in the course of collection efforts, through civil proceedings filed in the appropriate Court in Delta County, Colorado. (Ord. 7, 2012)

Chapter 2.88

CEMETERY REGULATIONS

Sections:

2.88.080 Driving on lots prohibited--Cemetery hours.

A. It is unlawful for any person or persons to ride or drive any animal, animals or vehicles upon, over or across the lands or lots of any cemetery of the City, or any part thereof, except the regularly laid-out vehicle ways in such cemetery.

B. It is unlawful for any person to enter the grounds of the Delta Cemetery at any time between one hour after sunset and one hour before sunrise without the written permission of the custodian and chief of police. (Ord. 14, §8, 1976)

2.88.090 Destruction of property prohibited. It is unlawful for any person, not properly authorized, to destroy, mutilate, cut, remove, break or injure any trees, shrubs, plants or other ornament, or to tie any horse or other animal or animals to the same, in any cemetery in the City, and it is unlawful to destroy, cut, mutilate, remove, break, injure or deface any walks, sidewalks, fences, gateposts or other things used in or belonging to such cemetery. (Ord. 14, §9, 1976)

2.88.100 Burial in approved cemeteries within City required. The interment of any deceased person within the corporate limits of the City, except in platted and duly authorized cemeteries, is prohibited. (Ord. 14, §10, 1976)

2.88.110 Rules and regulations governing Delta Cemetery. All plot owners, visitors, cemetery employees, persons working directly or indirectly for lot owners and all lots sold shall be subject to these rules and regulations, and subject further to such other rules and regulations, amendments or alterations as shall be adopted by the City from time to time; and the reference to these rules and regulations in the certificate of ownership to plots shall have the same force and effect as if set forth in full therein. (Ord. 14, §11(part), 1976)

Title 3

REVENUE AND FINANCE

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Chapter 3.04

SALES AND USE TAX

Sections:

3.04.380 Participation in simplification meetings.

3.04.010 Short title. This Chapter may be known and cited as the City's Sales and Use Tax. (Ord. 1, §1(part), 1986)

3.04.020 Definitions.

A. As used in this Chapter, unless the context otherwise requires:

1. "Person" means any individual, firm, partnership, joint venture, corporation, estate or trust, receiver, trustee, assignee, lessee or any person acting in a fiduciary or representative capacity, whether appointed by court or otherwise, or any group or combination acting as a unit.

2. "City" means the City of Delta, or any officer, agent or employee thereof.

3. (a) "Purchase" or "sale" means the acquisition for any consideration by any person of tangible personal property or taxable services that are purchased, leased, rented, sold, used, stored, distributed, or consumed, but excludes a bona fide gift of property or services. These terms include capital leases, installment and credit sales, and property and services acquired by:

(i) Transfer, either conditionally or absolutely, of title or possession or both to tangible personal property;

(ii) A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property or taxable services. The utilization of coin operated devices, except coin-operated telephones, which do not vend articles or tangible personal property shall be considered short term rentals of tangible personal property;

(iii) Performance of taxable services; or

(iv) Barter or exchange for other property or services including coupons.

(b) The terms "purchase" and "sale" do not include:

(i) A division of partnership assets among the partners according to their interests in the partnership;

(ii) The formation of a corporation by the owners of a business and the transfer of their business assets to the corporation in exchange for all the corporation's outstanding stock, except qualifying shares, in proportion to the assets contributed;

(iii) The transfer of assets of shareholders in the formation or dissolution of professional corporations;

(iv) The dissolution and the pro rata distribution of the corporation's assets to its stockholders;

(v) A transfer of a partnership interest;

(vi) The transfer in a reorganization qualifying under section 368(a)(1) of the "Internal Revenue Code of 1954", as amended;

(vii) The formation of a partnership by the transfer of assets to the partnership, or transfers to a partnership in exchange for proportionate interests in the partnership;

(viii) The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder;

(ix) The transfer of assets from a parent corporation to a subsidiary corporation or corporations which are owned at least eighty percent by the parent corporation, which transfer is solely in exchange for stock or securities of the subsidiary corporation;

(x) The transfer of assets from a subsidiary corporation or corporations which are owned at least eighty percent by the parent corporation to a parent corporation or to another subsidiary which is owned at least eighty percent by the parent corporation, which transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets;

(xi) The transfer of assets between parent and closely held subsidiary corporations, or between subsidiary corporations closely held by the same parent corporation, or between corporations which are owned by the same shareholders in identical percentage of stock ownership amounts, computed on a share-by-share basis, when a tax imposed by this article was paid by the transferor corporation at the time it acquired such assets, except to the extent that there is an increase in the fair market value of such assets resulting from the manufacturing, fabricating, or physical changing of the assets by the transferor corporation. To such an extent any transfer referred to in this paragraph (xi) shall constitute a sale. For the purposes of this paragraph (xi), a closely held subsidiary corporation is one in which the parent corporation owns stock possessing at least eighty percent of the total combined voting power of all classes of stock entitled to vote and owns at least eighty percent of the total number of shares of all other classes of stock.

4. "Wholesaler" means any person selling to retailers, jobbers, dealers or other wholesalers for resale, and not for storage, use, consumption, or distribution.

5. "Wholesale sales" means sales to licensed retailers, jobbers, dealers or wholesalers for resale. Sales by wholesalers to nonlicensed state retailers are not wholesale sales.

6. "Retailer" means any person selling, leasing or renting tangible personal property or services at retail. Retailer shall include any:

(a) Auctioneer;

(b) Salesperson, representative, peddler or canvasser, who makes sales as a direct or indirect agent of or obtains such property or services sold from a dealer, distributor, supervisor or employer;

(c) Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired by gift or donation or that the proceeds are to be used for charitable or governmental purposes.

7. "Retail sales" means all sales except wholesale sales.

8. "Business" means all activities engaged in or caused to be engaged in with the object of gain, benefit, or advantage, direct or indirect.

9. "Taxpayer" means any person obligated to collect and/or pay tax under the terms of this Chapter.

10. "Tax" means the use tax due from a consumer or the sales tax due from a retailer or the sum of both due from a retailer who also consumes.

11. "Tangible personal property" means corporeal personal property.

12. (a) "Price" or "purchase price" means the price to the consumer, exclusive of any direct tax imposed by the Federal government or by this article, and in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the same time and place of the exchange, if:

(i) Such exchanged property is to be sold thereafter in the usual course of the retailer's business; or

(ii) Such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration or certification under the laws of this State, including but not limited to vehicles operating upon public highways, off-highway recreation vehicles, watercraft and aircraft. Any money or other consideration paid over and above the value of the exchanged property is subject to tax.

(b) "Price" or "purchase price" includes:

(i) The amount of money received or due in cash and credits.

(ii) Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.

(iii) Any consideration valued in money, such as trading stamps or coupons whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.

(iv) The total price charged on credit sales including finance charges which are not separately stated. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of the note is not part of the purchase price. An amount charged for insurance on the property sold and separately stated is not part of the purchase price.

(v) Installation, delivery and wheeling-in charges included in the purchase price and not separately stated.

(vi) Transportation and other charges to effect delivery of tangible personal property to the purchaser.

(vii) Indirect Federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock.

(viii) The gross purchase price of articles sold after manufacturing or after having been made to order, including the

gross value of all the materials used, labor and service performed and the profit thereon.

(c) "Price" or "purchase price" shall not include:

(i) Any sales or use tax imposed by the State of Colorado or by any political subdivision thereof.

(ii) The fair market value of property exchanged if such property is to be sold thereafter in the retailer's usual course of business. This is not limited to exchanges in Colorado. Out of state trade-ins are an allowable adjustment to the purchase price.

(iii) Discounts from the original price if such discount and the corresponding decrease in sales tax due is actually passed on to the purchaser. An anticipated discount to be allowed for payment on or before a given date is not an allowable adjustment to the price in reporting gross sales.

13. "Gross sales" means the total amount received in money, credit, property or other consideration valued in money for all sales, leases, or rentals of tangible personal property or services.

14. "Storage" or "storing" means any keeping or retention of, or exercise of dominion or control over, tangible personal property in this City.

15. "Acquisition charges or costs" includes "purchase price."

16. "Access services" means the services furnished by a local exchange company to its customers who provide telecommunications services which allow them to provide such telecommunication services.

17. "Auction" means any sale where tangible personal property is sold by an auctioneer who is either the agent for the owner of such property or is in fact the owner thereof.

18. "Automotive vehicle" means any vehicle or device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, or any device used or designed for aviation or flight in the air. Automotive vehicle includes but is not limited to motor vehicles, trailers, semi-trailers, or mobile homes. Automotive vehicle shall not include devices moved by human power or used exclusively upon stationary rails or tracks.

19. "Charitable organization" means any entity organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office.

20. "Construction materials" means tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a completed structure or project including public and private

improvements. Construction materials include, but are not limited to such things as: asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wall board, wall coping, wall paper, weather stripping, wire netting and screen, water mains and meters, and wood preserver. The above materials, when used for forms or other items which do not remain as an integral or inseparable part of a completed structure or project are not construction materials.

21. "Consumer" means (a) any individual person or (b) person engaged in business in the City who uses, stores, distributes or otherwise consumes in the City tangible personal property or taxable services purchased from sources inside or outside the City.

22. "Drugs dispensed in accordance with a prescription" means drugs dispensed in accordance with any order in writing, dated and signed by a licensed practitioner of the healing arts, or given orally by a practitioner, and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, specifying the name and address of the person for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

23. "Engaged in business in the City" means performing or providing services or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption within the City. Engaged in business in the City includes, but is not limited to any one of the following activities by a person:

(a) Directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom, warehouse, or other place of business within the taxing jurisdiction;

(b) Sends one or more employees, agents or commissioned sales persons into the taxing jurisdiction to solicit business or to install, assemble, repair, service, or assist in the use of its products, or for demonstration or other reasons;

(c) Maintains one or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction;

(d) Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction; or

(e) Makes more than one delivery into the taxing jurisdiction within a twelve month period.

24. "Exempt commercial packaging materials" means containers, labels and shipping cases sold to a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling for sale, profit or use that meets all the following conditions: (a) is used by the manufacturer, compounder, wholesaler, jobber, retailer, packager, distributor or bottler to contain or label the finished product; (b) is transferred

by said person along with and as a part of the finished product to the purchaser; and (c) is not returnable to said person for reuse.

25. "Farm closeout sale" means full and final disposition of all tangible personal property previously used by a farmer or rancher in farming or ranching operations which are being abandoned.

26. "Finance Director" means the Finance Director of the City or such other person designated by the City. "Finance Director" shall also include such person's designee.

27. ""Food" means: food for domestic home consumption as defined in 7 U.S.C. section 2012(g) as amended, for purposes of the Federal food stamp program as defined in 7 U.S.C. section 2012(h), as amended, except that "food" does not include carbonated water marketed in containers; salad bars; cold sandwiches; deli trays; and food or drink vended by or through machines or non-coin operated coin-collecting food and snack devices on behalf of a vendor.

28. "License" means a City sales and use tax license.

29. "Linen services" means services involving provision and cleaning of linens, including but not limited to rags, uniforms, coveralls and diapers.

30. "Lodging services" means the furnishing of rooms or accommodations by any person, partnership, association, corporation, estate, representative capacity or any other combination of individuals by whatever name known to a person who for a consideration uses, possesses, or has the right to use or possess any room in a hotel, inn, bed and breakfast residence, apartment hotel, lodging house, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp, or trailer court and park, or similar establishment, for a period of less than thirty days under any concession, permit, right of access, license to use, or other agreement, or otherwise.

31. "Medical supplies" means drugs dispensed in accordance with a prescription; insulin in all its forms dispensed pursuant to the direction of a licensed physician; glucose useable for treatment of insulin reactions; urine- and blood-testing kits and materials; insulin measuring and injecting devices; wheelchairs and hospital beds; drugs or materials when furnished by a doctor as part of professional services provided to a patient; and corrective eyeglasses, contact lenses or hearing aids.

32. "Mobile machinery and self-propelled construction equipment" means those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo but which have been redesigned or modified by the mounting thereon of special equipment or machinery, and which may be only incidentally operated or moved over the public highways. This definition includes but is not limited to wheeled vehicles commonly used in the construction, maintenance and repair of roadways, the drilling of wells, and the digging of ditches.

33. "Newspaper" means a publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest. The term newspaper does not include:

magazines, trade publications or journals, credit bulletins, advertising inserts, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing services or listings, publications that include an updating or revision service, books or pocket editions of books.

34. "Pay television" shall include but not be limited to cable, microwave or other television service for which a charge is imposed.

35. "Preprinted newspaper supplements" shall mean inserts, attachments or supplements circulated in newspapers that: (a) are primarily devoted to advertising; and (b) the distribution, insertion, or attachment of which is commonly paid for by the advertiser.

36. "Prescription drugs for animals" means drugs dispensed in accordance with any order in writing dated and signed by a practitioner, or given orally by a practitioner, specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.

37. "Private communications services" means telecommunications services furnished to a subscriber, which entitles the subscriber to exclusive or priority use of any communication channel or groups of channels, or to the exclusive or priority use of any interstate intercommunications system for the subscriber's stations.

38. "Prosthetic devices" means any artificial limb, part, device or appliance for human use which aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular individual; and is prescribed by a licensed practitioner of the healing arts. Prosthetic devices include but are not limited to prescribed auditory, ophthalmic or ocular, cardiac, dental, therapeutic, or orthopedic devices or appliances, oxygen concentrators and oxygen with related accessories.

39. "Recreation services" means all services relating to athletic or entertainment participation events including but not limited to pool, golf, billiards, skating, tennis, bowling, health/athletic club memberships, coin operated amusement devices, video games and video club memberships.

40. "Return" means the sales and use tax reporting form used to report sales and use tax.

41. "Sales tax" means the tax to be collected and remitted by a retailer on sales taxed under this Chapter.

42. "Security system services" means electronic security system services. Such term does not include non-electronic security services such as consulting or human or guard dog patrol services.

43. "Sound system services" means sound system services involving provision of broadcast or pre-recorded audio programming to a building or portion thereof. Such term does not include installation of sound systems where the entire system becomes the property of the building owner or the sound system service is for presentation of live performances.

44. "Tax deficiency" means any amount of tax that is not reported or not paid on or before the due date.

45. "Taxable sales" means gross sales less any exemptions and deductions specified in this Chapter.

46. "Taxable services" means services subject to tax pursuant to this Chapter.

47. "Telecommunications service" means the transmission of any two-way interactive electromagnetic communications including but not limited to voice, image, data and any other information, by the use of any means but not limited to wire, cable, fiber optical cable, microwave, radio wave or any combination of such media. "Telecommunications service" includes but is not limited to basic local exchange telephone service, toll telephone service and teletypewriter service, including but not limited to residential and business service, directory assistance, cellular mobile telephone or telecommunication service, specialized mobile radio and two-way pagers and paging service, including any form of mobile two-way communications. "Telecommunications service" does not include separately stated non transmission services which constitute computer processing applications used to act on the information to be transmitted.

48. "Therapeutic device" means devices, appliances, or related accessories that are sold to correct or treat a human physical disability or surgically created abnormality; if such device, appliance or related accessory has a retail value of more than one hundred dollars, it must be sold in accordance with a written recommendation from a licensed doctor to qualify as a "therapeutic device" for purposes of this Chapter.

49. "Total tax liability" means the total of all tax, penalties or interest owed by a taxpayer and shall include sales tax collected in excess of such tax computed on total sales.

50. "Use tax" means the tax paid or required to be paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the City.

51. "WATS/800 service" means any outbound or inbound interstate wide area telecommunications service or other similar service which entitles the subscriber, upon payment of a periodic charge, based upon a flat amount and/or usage, to make or receive a large volume of telephonic communications to or from persons having telephone or radio telephone stations in specified areas which are outside the telephone system area in which the subscriber's station is located. (Ord. 1, §1(part), 1986; Ord. 12, §1, 1991)

3.04.030 Sales tax license.

A. It shall be unlawful for any retailer to engage in the business of selling at retail, without first having obtained an annual license therefor, which license shall be granted and issued by the City and shall be in force until December 31st of the year issued or until revoked or suspended. Such license shall be granted or renewed only upon application stating the name and mailing address of the person desiring such a license, the name of such business and the location, including the street number of such business, and such other facts as the City may require. Each application shall be accompanied by $10.00 application fee.

B. In case business is transacted at two (2) or more separate places by one person, a separate license for each place of business shall be required.

C. Each license shall be numbered and shall show the name, residence, and place and character of business of the licensee and shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferable.

D. The City Council, after reasonable notice and a hearing, may revoke or suspend the license of any person found by the City Council to have violated any provision of this Chapter.

E. No license shall be required for any person engaged exclusively in the business of selling commodities which are exempt from taxation under this Chapter.

F. No license shall be required for any Delta County nonprofit civic organization or church which engages only in occasional sales or fund-raising drives.

G. A Delta County civic organization or church which sponsors a civic event involving multiple vendors may elect to obtain a sales tax license in the name of said sponsor for the event and thereby take responsibility to insure the collection of the City sales tax on taxable sales made by such vendors and remittance to the sponsor, who shall thereafter make a return and remit such sales tax to the City. Such a "civic event" license may be used in lieu of individual sales tax licenses for the individual vendors which would otherwise be required to obtain a license. In the absence of such an event license, each retailer required to have a City sales tax license shall obtain one and remit sales taxes individually in accordance with this Chapter. (Ord. 1 §1(part), 1986; Ord. 3, §1, 1988; Ord. 31 §1, 1997)

3.04.040 Sales tax levied.

A. There is hereby levied and there shall be collected and paid a 3% sales tax as follows:

1. On the purchase price paid or charged upon all sales and purchases of tangible personal property at retail.

2.(a) In the case of retail sales involving the exchange of property, on the purchase price paid or charged, including the fair market value of the property exchanged at the time and place of exchange, excluding however, from the consideration or purchase price the fair market value of exchanged property if: (i) such exchanged property is to be sold thereafter in the usual course of the retailer's business.

(b) The exchange of three (3) or more vehicles of the same type by any person in any calendar year in transactions subject to the provisions of this Chapter shall be prima facie evidence that such person is engaged in the business of selling vehicles of the type involved in such transaction as a retailer, and that he is thereby subject to licensing requirements.

3. Telecommunications services, except interstate or international private communications service, for all international, interstate and intrastate telecommunications service originating from or received on telecommunications equipment in the City, including carrier access services, interstate or international WATS/800 Service,

if the charge for the service is billed to an apparatus, telephone, or account in this City, without regard to where the bill for such services is actually received. If a taxpayer presents to the City written proof of double taxation of the said telecommunications services, the City shall credit against the tax accruing under this Chapter the amount of tax actually paid by the taxpayer to the other taxing entity. If the tax accruing under this Chapter exceeds the amount of tax actually paid by the taxpayer to the other taxing entity, the taxpayer shall pay the difference to the City. The credit provided for in this Section shall not be allowed if the tax actually paid by the taxpayer to the other taxing entity was not by law required to be paid.

Telecommunications services sold for resale to other persons for purposes of providing telecommunications services to the final end user will not be subject to the sales tax.

4. On the purchase price of gas and electric service, whether furnished by municipal, public or private corporations or enterprises, for gas and electricity furnished and sold for domestic and commercial consumption and not for resale, and upon steam when consumed or used by the purchaser and not resold in original form whether furnished or sold by municipal, public or private corporations or enterprises.

5. On the purchase price paid or charged for food or drink served or furnished in or by restaurants, cafes, lunch counters, cafeterias, hotels, drug stores, clubs, cabarets, resorts, snack bars, caterers, carryout shops, and other like places of business at which prepared food or drink is regularly sold to the public. Cover charges shall be included as part of the amount paid for such food or drink.

6. On the purchase price paid or charged to any person for lodging services.

B. Credit Sales: Whenever an article is sold under a conditional sales contract whereby the seller retains title as security for all or part of the purchase price, or whenever the seller takes a chattel mortgage on the article to secure all or part of the purchase price, the total tax based on the total selling price shall become immediately due and payable. This tax shall be charged and collected by the seller. No refund or credit shall be allowed to either party to the transaction in case of repossession. (Ord. 1, §1(part), 1986; Ord. 8, §1, 1991; Ord. 12, §2, 1991)

3.04.050 Collection and remittance of sales tax.

A. Every retailer shall, irrespective of the provisions of subsection (G), be liable and responsible for the payment of an amount equivalent to three percent (3%) of all sales made by him of commodities or services as specified in Section 3.04.040, and shall before the twentieth day of each month, make a return to the City for the preceding calendar month and remit an amount equivalent to said three percent (3%) of such sales to the City. Such returns of the taxpayer, or his duly authorized agent, shall contain such information and be made in such manner and upon such forms as the City may prescribe, including the State's standard municipal sales and use tax reporting form. The City Manager may extend the time for making

returns and paying the taxes due under such reasonable rules and regulations as he may prescribe. The burden of proving that any person is exempt from collecting the tax on any goods sold and paying the same to the City, or from making such returns, shall be on said person.

B. Should a dispute arise between the purchaser and seller as to whether or not any such sale is exempt from taxation hereunder, nevertheless the seller shall collect and the purchaser shall pay such tax and the seller shall thereupon issue to the purchaser a receipt or certificate on forms prescribed by the City showing the names of the seller and purchaser, the items purchased, the date, price, amount of tax paid, and a brief statement of the claim of exemption. The purchaser thereafter may apply to the City for a refund of such taxes and it shall then be the duty of the City to determine the question of exemption.

C. It shall be unlawful for any retailer to advertise or hold out or state to the public or to any customer directly or indirectly that the tax or any part thereof imposed by this Chapter will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold, or if added, that all or any part thereof will be refunded. Provided, however, retailers selling alcoholic beverages by the drink may include the sales tax as part of the sales price to the consumer, using schedules promulgated by the City Manager. Retailers selling by vending machine or vending box shall remit 3% of total sales.

D. Reports to Vendors: If the accounting methods regularly employed by the vendor in the transaction of his business, or other conditions are such that reports of sales made on a calendar month basis will impose unnecessary hardship, the City Manager, upon written request of the vendor, may accept reports at such intervals as will, in his opinion, better suit the convenience of the taxpayer and will not jeopardize the collection of the tax.

E. A retailer doing business in two (2) or more places or locations, taxable, hereunder, may file one return covering all such business activities engaged within the City.

F. If any vendor, during the reporting period, collects as a tax an amount in excess of three percent (3%) of his total taxable sales, he shall remit to the City the full net amount of the tax herein imposed and also such excess. The retention by the retailer or vendor of any excess of tax collections over the three percent (3%) of the total taxable sales of such retailer or vendor, or the intentional failure to remit punctually to the City the full amount required to be remitted by the provisions of this Chapter, is unlawful.

G. The tax shall be computed and collected in accordance with appropriate schedules promulgated by the City Manager. (Ord. 1, §1(part), 1986; Ord. 13, §1, 1986; Ord. 8, §1, 1991)

3.04.060 Administration, interpretation and enforcement.

A. The City Manager shall be responsible for the administration, interpretation and enforcement of this Chapter.

B. The City Manager shall adopt such regulations as may be necessary or desirable for the administration and interpretation of this Chapter.

C. The City may use regulations promulgated by the Colorado Department of Revenue applicable to the State sales and use tax in the administration and interpretation of this Chapter to the extent such regulations are applicable to and consistent with the provisions of this Chapter and regulations issued hereunder. (Ord. 1, §1(part), 1986)

3.04.070 Rate of interest. When interest is required or permitted to be charged under any provisions of this Chapter, the annual rate of interest shall be that established by the state commissioner of banking pursuant to C.R.S. 39-21-110.5, except as otherwise provided. (Ord. 1, §1(part), 1986)

3.04.080 Exemption from sales tax. There shall be exempt from the sales tax under the provisions of this Chapter, the following:

A. All sales to the United States Government, to the State of Colorado, its departments and institutions, and the political subdivisions thereof in their governmental capacities only.

B. All sales made to charitable organizations, in the conduct of their regular charitable functions and activities.

C. All sales which the City is prohibited from taxing under the constitution or laws of the United States or the State of Colorado.

D. All sales of cigarettes.

E. All sales of medical supplies and therapeutic devices.

F. All sales and purchases of commodities and services under the provisions of section 3.04.040(A)(6) to any occupant who is a permanent resident of a hotel, apartment hotel, lodge housing, motor hotel, guesthouse, guest ranch, mobile home, auto camp, trailer court or park, and who enters into or has entered into a written agreement for occupancy of a room or rooms or accommodations for a period of at least thirty (30) consecutive days during the calendar year or preceding year.

G. All commodities which are taxed under the provisions of Article 27, Title 39, C.R.S., and all commodities which are taxed under said provisions and the tax is refunded, and all sales and purchases of aviation fuel upon which no Colorado sales tax was in fact collected and retained prior to July 1, 1963. The storage, use, or consumption of such aviation fuel shall be exempt from taxation under the use tax imposed by the Chapter.

H. All sales made to schools, other than schools held or conducted for private or corporate profit.

I. Any sale of a new or used trailer, semitrailer, truck, truck tractor, or truck body manufactured within this City if such vehicle is purchased from the manufacturer for use exclusively outside this City or in interstate commerce and is delivered by the manufacturer to the purchaser within this City if the purchaser drives or moves such vehicle to any point outside this City within thirty days after the date of delivery, and if the purchaser furnishes an

affidavit to the manufacturer that such vehicle will be permanently licensed and registered outside this City and will be removed from the City within thirty days after the date of delivery.

J. Any sale of a new or used trailer, semitrailer, truck, truck tractor, or truck body if such vehicle is purchased for use exclusively outside this City or in interstate commerce and is delivered by the manufacturer or licensed Colorado dealer to the purchaser within this City, if the purchaser drives or moves such vehicle to any point outside this City within thirty days after the date of delivery, and if the purchaser furnishes an affidavit to the seller that such vehicle will be permanently licensed and registered outside this City and will be removed from this City within thirty days after the date of delivery.

K. All sales of construction and building materials to a common carrier by rail operating in interstate or foreign commerce for use by such common carrier in construction and maintenance of its railroad tracks; however, any actual use of such construction and building materials shall, at the time of such actual use, be subject to the tax imposed by Section 3.04.210.

L. Any right to the continuous possession or use for three years or less of any article of tangible personal property under a lease or contract, if the lessor has paid to the City a sales or use tax on such tangible personal property upon its acquisition. The City may permit a lessor of tangible personal property leased for a period of three years or less to acquire such property free of sales or use tax if the lessor agrees to collect sales tax on all lease payments received on such property.

M. The transfer of tangible personal property without consideration (other than the purchase, sale, or promotion of the transferor's product) to an out-of-city vendee for use outside of this City in selling products normally sold at wholesale by the transferor.

N. The sale of tangible personal property for testing, modification, inspection, or similar type of activities in this City if the ultimate use of such property in manufacturing or similar type of activities occurs outside of this City and if the test, modification, or inspection period does not exceed ninety days.

O. The sale of special fuel, as defined in C.R.S. 39-27-201(8), used for the operation of farm vehicles when such vehicles are being used on farms and ranches.

P. Any sale of any article to a retailer or vendor of food, meals, or beverages, which article is to be furnished to a consumer or user for use with articles of tangible personal property purchased at retail, if a separate charge is not made for the article to the consumer or user, if such article becomes the property of the consumer or user, together with the food, meals, or beverages purchased, and if a tax is paid on the retail sale as required by Section 3.04.040.

Q. Any sale of any container or bag to a retailer or vendor of food, meals, or beverages, which container or bag is to be furnished to a consumer or user for the purpose of packaging or bagging articles of tangible personal property purchased at retail, if a separate charge is not made for the container or bag to the consumer or user, if such container or bag becomes the property of the consumer or user,

together with the food, meals, or beverages purchased, and if a tax is paid on the retail sale as required by Section 3.04.040.

R. All transactions specified in Section 3.04.040(A)(2)(a), in which the fair market value of the exchanged property is excluded from the consideration or purchase price because such exchanged property is covered by Section 3.04.040(A)(2)(a), and in which, because there is not additional consideration involved in the transaction, there is no purchase price within the meaning of Section 3.04.020(A)(12).

S. All sales of construction and building materials to contractors and subcontractors for use in the building, erection, alteration, or repair of structures, highways, roads, streets, and other public works owned and used by:

(1) The United States government, the state of Colorado, its departments and institutions, the political subdivisions thereof in their governmental capacities only;

(2) Charitable organizations in the conduct of their regular charitable functions and activities; or

(3) Schools, other than schools held or conducted for private or corporate profit.

T. All sales and purchases of neat cattle, sheep, lambs, poultry, swine, and goats; all sales and purchases of mares and stallions for breeding purposes; all sales and purchases of live fish for stocking purposes; and all farm close-out sales shall be exempt from taxation under this sales tax, and the storage, use, or consumption of such property shall be exempt from taxation under the use tax imposed by the Chapter.

U. All sales and purchases of feed for livestock, including horses or poultry, all sales and purchases of seeds, and all sales and purchases of orchard trees shall be exempt from taxation under this sales tax, and the storage, use or consumption of such property shall be exempt from taxation under the use tax of this Chapter.

V. All sales and purchases of straw and other bedding for use in the care of livestock or poultry shall be exempt from taxation under the use tax of this Chapter.

W. Forty-eight percent of the purchase price of factory-built housing, as such housing is defined in C.R.S. 24-32-703, shall be exempt from taxation under this sales tax; except that the entire purchase price in any subsequent sale of a mobile home, as such vehicle is defined in C.R.S. 42-1-102(82)(b), after such mobile home has been once subject to the payment of a sales tax by virtue of Section 3.04.270, shall be exempt from taxation under this sales tax.

X. The purchase price of electric-powered motor vehicles, including both the original and all subsequent purchases of such vehicles, and the purchase of batteries and controls required for the operation and maintenance of such vehicles shall be exempt from taxation under this sales tax; and the storage, use, or consumption of such vehicles, batteries, and controls shall be exempt from taxation under the use tax of this Chapter. This subsection (X) is repealed, effective July 1, 1987.

Y. In any case in which a sales tax has been imposed under this Chapter on lubricating oil used other than in motor vehicles, the purchaser thereof shall be entitled to a refund equal to the amount of

the City sales tax paid on that portion of the sale price thereof which is attributable to the federal excise tax imposed on the sale of such lubricating oil. In any case in which a use tax has been imposed under this Chapter on lubricating oil used other than in motor vehicles, the payer of such tax is entitled to a refund equal to the amount of such use tax paid on that portion of the amount upon which the use tax was imposed which is attributable to the federal excise tax paid on such lubricating oil. The refund allowed under this subsection (2) shall be paid by the City upon receiving evidence that the purchaser has received under section 6424 of the federal "Internal Revenue Code of 1954" as from time to time amended, a refund of the federal excise tax paid on the sale of such lubricating oil. The claim for a refund shall be made upon such forms as shall be prescribed and furnished by the City which forms shall contain such information as the City may prescribe.

Z. All sales and purchases of refractory materials and carbon electrodes used by a person manufacturing iron and steel for sale or profit and all sales and purchases of inorganic chemicals used in the processing of vanadium-uranium ores shall be exempt from taxation under this sales tax, and the storage, use, or consumption of such property shall be exempt from taxation under the use tax of this Chapter.

AA. All sales and purchases of taxable personal property on which a specific ownership tax has been paid or is payable shall be exempt from such City sales tax when such sales meet both of the following conditions: (1) The purchaser is a non-resident of, or has its principal place of business outside the City; and (2) Such personal property is registered or is required to be registered under an address outside of the City.

BB. Effective July 1, 1984, all sales of aircraft used or purchased for use in interstate commerce by a commercial airline.

CC. All sales in which the tangible personal property sold is delivered by the retailer to a destination outside the limits of the City, or to a common carrier for delivery to a destination outside the limits of the City, shall be exempt from the provisions of this Chapter.

DD. The sale of construction and building materials, as the term is used in C.R.S. 29-2-109, if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the City evidencing that a local use tax has been paid or is required to be paid.

EE. The sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule municipality equal to or in excess of 3%. A credit shall be granted against the City's sales tax with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule municipality. The amount of the credit shall not exceed 3%.

FF. Sales made by Delta County nonprofit civic organizations or churches in the course of occasional sales or fund-raising drives with purchase price of less than $20.00.

GG. All sales of newspapers.

HH. 1. (a) All sales and purchases of farm equipment shall be exempt from taxation under this Chapter.

(b) (i) Any farm equipment under lease or contract shall be exempt from taxation under this Chapter if the fair market value of such equipment is at least one thousand dollars and the equipment is rented or leased for use primarily and directly in any farm operation.

(ii) The lessor or seller of such farm equipment shall obtain a signed affidavit from the lessee, renter, or purchaser affirming that the farm equipment will be used primarily and directly in a farm operation.

2. For purposes of this subsection HH:

(a) "Attachments" means any equipment or machinery added to an exempt farm tractor or implement of husbandry that aids or enhances the performance of such tractor or implement.

(b) "Farm equipment" means farm tractors, as defined in section 42-1-102(33), C.R.S.,implements of husbandry, as defined in section 42-1-102(44), C.R.S. , and irrigation equipment having a per unit purchase price of at least one thousand dollars. "Farm equipment" also includes, regardless of purchase price, attachments and bailing wire, binders, twine and surface wrap used primarily and directly in any farm operation. On and after July 1, 2000, "farm equipment" also includes, regardless of purchase price, parts that are used in the repair or maintenance of the farm equipment described in this subparagraph (b), all shipping pallets or aids paid for by a farm operation, and aircraft designed or adapted to undertake agricultural applications. "Farm equipment" does not include:

(i) Vehicles subject to the registration requirement of section 42-3-103,C.R.S., regardless of the purpose for which such vehicles are used;

(ii) Machinery, equipment, materials, and supplies used in a manner that is incidental to a farm operation;

(iii) Maintenance and janitorial equipment and supplies; and

(iv) Tangible personal property used in any activity other than farming, such as office equipment and supplies and equipment and supplies used in the sale or distribution of farm products, research or transportation.

(c) "Farm operation" means the production of any of the following products for profit, including but not limited

to a business that hires out to produce or harvest such products:

(i) Agricultural, viticultural, fruit, and vegetable products;

(ii) Livestock, as defined in section 30-26-102(5.5);

(iii) Milk;

(iv) Honey; and

(v) Poultry and eggs.

(Ord. 1, §1(part), 1986; Ord. 3, §2, 1988; Ord. 8, §1, 1991; Ord. 12, §3, 1991; Ord. 26, 2001)

3.04.090 Disputes and refunds.

A. A refund shall be made, or a credit allowed, for the tax paid under dispute by any purchaser who has an exemption as in this Chapter provided. Such refund shall be made by the City after compliance with the following conditions precedent: (1) Applications for refund must be made within sixty (60) days after the purchase of the goods whereon an exemption is claimed; (2) Application for refund of taxes paid in error or by mistake shall be made within three years after the date of purchase; (3) Applications must be supported by the affidavit of the purchaser accompanied by the original paid invoice or sales receipt and certificate issued by the seller, and be made upon such forms as shall be prescribed by the City, which forms shall contain such information as City shall prescribe.

B. Upon receipt of such application, the City shall examine the same with all due speed and shall give notice to the applicant by order in writing of the decision thereon.

C. Aggrieved applicants, within 20 calendar days after such decision is mailed to them, may petition the City Manager for a hearing on the claim in the manner provided in Sections 3.04.180 and 3.04.190.

D. The right of any person to a refund under this Section shall not be assignable and such application for refund must be made by the same person who purchased the goods and paid the tax thereon as shown in the invoice of the sale thereof.

E. The burden of proving that sales, services, and commodities on which tax refunds are claimed, are exempt from taxation under this Chapter, or were not at retail, shall be on the one making such claim. Should the applicant for the refund be aggrieved at the final decision of the City Manager, he may proceed to have the same reviewed in the manner provided for review of other decisions of the City Manager in Sections 3.04.180 and 3.04.190. (Ord. 1, §1(part), 1986; Ord. 12, §4(part), 1991)

3.04.100 Return confidential.

A. Except in accordance with court order, as necessary in any action brought or defended by the City, or as otherwise herein

provided, the City shall not release any return for inspection or copying, or divulge any information gained from any return filed under the provisions of this Chapter from which the volume of sales or amount of taxes paid of any individual retailer can be determined.

B. Sales and use tax returns shall be considered confidential financial information under the State Public Records Act.

C. Nothing contained in this Section shall be construed to prohibit the delivery to a person or his duly authorized representative of a copy of any return or report filed by him in connection with his own tax, nor to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, nor to prohibit the inspection, reproduction and use by the City in the administration and enforcement of this Chapter.

D. Reports and returns shall be preserved for three (3) years and thereafter until the City Manager orders them destroyed. (Ord. 1, §1(part), 1986)

3.04.110 Review of return.

A. As soon as practicable after the return is filed, the City shall examine it. If it then appears that the correct amount of tax to be remitted is greater or less than that shown in the return to be due, the tax shall be recomputed.

B. If the amount paid exceeds that which is due, the excess shall be refunded or credited against any subsequent remittance from the same persons.

C. If the amount paid is less than the amount due, the difference, together with interest thereon as provided in Section 3.04.120, shall be paid by the vendor twenty (20) calendar days after written assessment and demand to him from the City. The taxpayer may appeal such assessment to the City Manager pursuant to Section 3.04.180. (Ord. 1, §1(part), 1986; Ord. 12, §4(part), 1991)

3.04.120 Interest on underpayment.

A. If any amount of sales or use tax is not paid on or before the last date prescribed for payment, interest on such amount at the rate imposed under Section 3.04.070 shall be paid for the period from such last date to the date paid. The last date prescribed for payment shall be determined without regard to any extension of time for payment and shall be determined without regard to any notice and demand for payment issued, by reason of jeopardy, prior to the last date otherwise prescribed for such payment. In the case of a tax in which the last date for payment is not otherwise prescribed, the last date for payment shall be deemed to be the date the liability for the tax arises, and in no event shall it be later than the date notice and demand for the tax is mailed by the City.

B. Interest prescribed under this Chapter shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as the tax to which it is applicable.

C. If any portion of a tax is satisfied by credit of an overpayment, then no interest shall be imposed under this section on the portion of the tax so satisfied for any period during which, if

the credit had not been made, interest would have been allowed with respect to such overpayment.

D. Interest prescribed under this Chapter on any sales or use tax may be assessed and collected at any time during the period within which the tax to which such interest relates may be assessed and collected. (Ord. 1, §1(part), 1986)

3.04.130 Sales or use tax--Deficiency due to negligence. If any part of the deficiency in payment of the sales or use tax is due to negligence or intentional disregard of the ordinances or of authorized rules and regulations of the City with knowledge thereof, but without intent to defraud, there shall be added ten percent of the total amount of the deficiency, and interest in such case shall be collected at the rate imposed under 3.04.070, in addition to the interest provided by 3.04.120 on the amount of such deficiency from the time the return was due, from the person required to file the return, which interest and addition shall become due and payable twenty calendar days after written notice and demand to him by the City. If any part of the deficiency is due to fraud with the intent to evade the tax, then there shall be added one hundred percent of the total amount of the deficiency and in such case, the whole amount of the tax unpaid, including the additions, shall become due and payable twenty calendar days after written notice and demand by the City and an additional three percent per month on said amount shall be added from the date the return was due until paid. (Ord. 1, §1(part), 1986; Ord. 12, §4(part), 1991)

3.04.140 Investigations and hearings.

A. For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax due from any person, the City may audit the business records and examine all relevant books, papers, records, or memoranda of any such person at his place of business, or elsewhere, and it shall be the duty of such person to make such relevant information available during reasonable hours for the examination of the City. In the event the City cannot ascertain the correctness of the return or the amount of tax due by such examination, the City may hold further investigations and hearings concerning any matters covered by this Chapter and may issue subpoenas to require the attendance and testimony of any person or the production of any documents. The City Manager or his duly authorized deputies shall have power to administer oaths to such persons.

B. The City Manager or any party in an investigation or hearing before the City Manager may take the depositions or witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in Courts of this State and to that end the City may compel the attendance of witnesses and the production of books, papers, records or memoranda.

C. The District Court, upon the application of the City Manager, may enforce any subpoena issued by the City for attendance of witnesses, the production of books, papers, records or memoranda and the giving of testimony.

D. If the results of any audit indicate that taxes paid were in excess or less than what was due, the procedures of Sections 3.04.110 and 3.04.180 shall be followed. Interest and penalties shall be assessed pursuant to 3.04.120 and 3.04.140. Amounts due may be collected as provided in this Chapter for any delinquent taxes. (Ord. 1, §1(part), 1986)

3.04.150 Record of sales. It shall be the duty of every person engaged or continuing in business in this City, for the transaction of which a license is required under this Chapter, to keep and preserve suitable records of all sales made by him and such other books or accounts as may be necessary to determine the amount of tax for the collection of which he is liable. Each retailer shall keep sufficient information to establish deductions for wholesale sales, including purchaser's name and state sales tax license number, and to establish deductions for sales to tax-exempt entities, including state tax exempt numbers of the purchaser. Exemptions or deductions taken without documentation shall be disallowed. It shall be the duty of every person to keep and preserve for a period of three (3) years all invoices of goods and merchandise purchased for resale and all such books, invoices and other records shall be open for examination at any time by the City. (Ord. 1, §1(part), 1986)

3.04.160 Tax lien.

A. The tax imposed by this Chapter shall be a first and prior lien upon the goods and business fixtures of or used by any retailer under lease, title retaining contract, or other contract arrangement, excepting stock of goods sold or for resale in the ordinary course of business, and shall tax precedence on all such property over other liens or claims of whatsoever kind or nature.

B. Any retailer who shall sell out his business or stock of goods, or shall quit business, shall be required to make out the return as provided in this Chapter, within ten (10) days after the date he sold his business or stock of goods, or quit business, and his successor in business shall be required to withhold sufficient purchase money to cover the amount of said taxes due and unpaid until such time as the former owner shall produce a receipt from the City showing that the taxes have been paid, or a certificate that no taxes are due.

C. If the purchaser of a business or stock of goods shall fail to withhold the purchase money as above provided and the taxes shall be due and unpaid after the ten (10) day period allowed, he, as well as the vendor, shall be personally liable for the payment of the taxes unpaid by the former owner. Likewise, anyone who takes any stock of goods or business fixtures of or used by any retailer under lease, title retaining contract or other contract arrangement, by purchase, foreclosure sale or otherwise, takes same subject to the lien for any delinquent sales tax owed by such retailer, and shall be liable for the payment of all delinquent sales taxes of such prior owner, not, however, exceeding the value of property so taken or acquired.

D. Whenever the business or property of any taxpayer subject to this Chapter shall be placed in receivership, bankruptcy or

assignment for the benefit of creditors, or seized under distraint for property taxes, all taxes, penalties and interest imposed by the Chapter and for which said retailer is in any way liable under the terms of this Chapter shall be a prior and preferred claim against all the property of said taxpayer, except as to pre-existing claims or liens of a bona fide mortgagee, pledgee, judgment creditor, or purchaser whose rights shall have attached prior to the filing of the notice as provided in Section 3.04.170 on the property of the taxpayer, other than the goods, stock in trade and business fixtures of such taxpayer. No sheriff, receiver, assignee, or other officer shall sell the property of any person subject to this Chapter under process or order of any Court, without first ascertaining from the City the amount of any taxes due and payable under this Chapter, and if there be any such taxes due, owing or unpaid, it shall be the duty of such officer to pay the amount of said taxes out of the proceeds of said sale before making payment of any moneys to any judgment creditor or other claims of whatsoever kind or nature, except the costs of the proceedings and other pre-existing claims or liens as above provided. For the purposes of this Chapter, the term "taxpayer" includes "retailer." (Ord. 1, §1(part), 1986)

3.04.170 Recovery of taxes, penalties and interest.

A. All sums of money paid by the purchaser to the retailer or seller as taxes imposed by this Charter shall be and remain public money, the property of the City, in the hands of such retailer and he shall hold the same in trust for the sole use and benefit of the City until paid to the City, and for failure to pay the same to the City, such person shall be punished for a violation hereof.

B. (1) If any person neglects or refuses to make a return in payment of the tax or to pay any tax, as required by this Chapter, the City shall make an estimate based on such information as may be available of the amount of taxes due for the period for which the taxpayer is delinquent and shall add thereto a penalty equal to the sum of $15 for such failure or 10% thereof and interest on such delinquent taxes at the rate set under Section 3.04.070, plus 1/2% per month from the date when due, not exceeding 18% in the aggregate. Promptly thereafter, the City shall give to the delinquent taxpayer written notice of such estimated taxes, penalty and interest, which notice shall be sent by first class mail, directed to the last address of such person on file with the City.

(2) Such estimate shall thereupon become an assessment, and such assessment shall be final and due and payable from the taxpayer to the City twenty (20) calendar days from the date of mailing; provided, however, that within said twenty (20) calendar day period such delinquent taxpayer may petition the City Manager, pursuant to Section 3.04.180 for a revision or modification of such assessment.

C. If any taxes, penalty or interest imposed by this Chapter and shown due by returns filed by the taxpayer or as shown by assessments duly made as provided herein, are not paid within five (5) days after the same are due, the City shall issue a notice, setting forth the name of the taxpayer, the amount of the tax, penalties and

interest, the date of the accrual thereof, and that the City claims a first and prior lien therefor on the real and tangible personal property of the taxpayer except as to pre-existing claims or liens of a bona fide mortgagee, pledgee, judgment creditor or purchaser whose rights shall have attached prior to the filing of the notice as herein provided on property of the taxpayer, other than goods, stock in trade, and business fixtures of such taxpayer. Said notice shall be on forms prepared by the City and shall be verified by the City Manager or his duly qualified deputy or any duly qualified agent of the City, whose duties are the collection of such tax, and may be filed in the office of the Clerk and Recorder of any County in this State in which the taxpayer owns real or tangible personal property, and the filing of such notice shall create such lien on such property in that County and constitute a notice thereof. After said notice has been filed, or concurrently therewith, or at any time when taxes due are unpaid, whether such notice is filed or not, the City may issue a warrant directed to any duly authorized revenue collector or to the Sheriff of any County in the State commanding him to levy upon, seize and sell sufficient of the real and personal property of the tax debtor found within his county for the payment of the amount due, together with interest, penalties and costs, subject to valid pre-existing claims or liens as above provided.

D. Such revenue collector or Sheriff shall forthwith levy upon sufficient property of the taxpayer, or any property used by such taxpayer in conducting his retail business, and said property so levied upon shall be sold in all respects, with like effect and in the same manner as is prescribed by law in respect to executions against property upon judgment of a Court of record, and the remedies of garnishments shall apply. The Sheriff shall be entitled to such fees in executing such warrants as are allowed by law for similar services.

E. Any lien for taxes as shown on the records of the county clerks and recorders as herein provided shall, upon the payment of all taxes, penalties and interest covered thereby, be released by the City in the same manner as mortgages or judgments are released.

F. The City Manager may also treat such taxes, penalties or interest due and unpaid as a debt due the City from the vendor. In case of failure to pay the tax or any portion thereof, or any penalty or interest thereon when due, the City may recover at law the amount of such taxes, penalties and interest in any County or District Court of the County wherein the taxpayer resides or has his principal place of business having jurisdiction of the amounts sought to be collected. The return of the taxpayer or the assessment made by the City, as herein provided, shall be prima facie proof of the amount due. Such actions may be actions in attachments, and writs of attachment may be issued to the sheriff, and in any such proceeding no bond shall be required of the City, nor shall any sheriff require of the City an indemnifying bond for executing the Writ of Attachment, or Writ of Execution upon any judgment entered in such proceedings; and the City may prosecute appeals in such cases without the necessity of providing bond therefor. It shall be the duty of the City Attorney when requested by the City Manager to commence action for the recovery of

taxes due under this Chapter, and the remedy shall be in addition to all other existing remedies, or remedies provided in this Chapter.

G. In any action affecting the title to real estate or the ownership or rights of possession of personal property, the City may be made a party defendant for the purpose of obtaining a judgment or determination of its lien upon the property involved therein.

H. The City Manager is hereby authorized to waive, for good cause shown, any interest or penalty assessed as in this Chapter. (Ord. 1, §1(part), 1986; Ord. 12, Sec, 4(part), 1991)

3.04.180 Appeals to City Manager.

A. Any person aggrieved by an assessment made upon him or refund denied by the City may apply to the City Manager by petition in writing within twenty (20) calendar days after the notice of assessment or denial is mailed to him for a hearing and a correction of the amount of the tax so assessed, in which petition he shall set forth the reasons why the amount by which such tax should be reduced or refund granted. The City Manager shall notify the petitioner in writing of the time and place fixed by him for such hearing. After such hearing, the City Manager shall make such order in the matter as is just and lawful.

B. Whenever the City determines pursuant to subsection (A) that sales or use taxes are due in an amount greater than the amount paid by a taxpayer, the City shall mail a deficiency notice to the taxpayer by certified mail. The deficiency notice shall state the additional sales and use taxes due. The deficiency notice shall contain notification, in clear and conspicuous type, that the taxpayer has the right to elect a state hearing on the deficiency pursuant to C.R.S. 29-1-106.1(3). The taxpayer shall also have the right to elect a state hearing on the City denial of such taxpayer's claim for a refund of sales or use tax paid.

C. The hearing before the City Manager shall be informal and no transcript, rules of evidence, or filing of briefs shall be required; but the taxpayer may elect to submit a brief, in which case the City may submit a brief. The City Manager shall hold such hearing and issue the final decision thereon within ninety days after the City's receipt of the taxpayer's written request therefor, except the City may extend such period if the delay in holding the hearing or issuing the decision thereon was occasioned by the taxpayer; but, in any event, the City shall hold such hearing and issue the decision thereon within one hundred eighty days of the taxpayer's request in writing therefore. (Ord. 1, §1(part), 1986; Ord. 12, §4(part), 1991)

3.04.190 Appeals. A. The taxpayer may elect a state hearing on the City Manager's final decision on a deficiency notice or claim for refund pursuant to the procedure set forth in this section.

B. As used in this section, "state hearing" means a hearing before the executive director of the department of revenue or delegate thereof as provided in C.R.S. 29-2-106.1(3).

C. The taxpayer shall request the state hearing within thirty days after the taxpayer's exhaustion of local remedies. The taxpayer shall have no right to such hearing if he has not exhausted local

remedies or if he fails to request such hearing within the time period provided for in this subsection (C). For purposes of this subsection (C), "exhaustion of local remedies" means:

(1) The taxpayer has timely requested in writing a hearing before the City Manager and such City Manager has held such hearing and issued a final decision thereon, pursuant to 3.04.180.

(2) The taxpayer has timely requested in writing a hearing before the City Manager and the City Manager has failed to hold such hearing or has failed to issue a final decision thereof within the time periods prescribed in subsection 3.04.180(C).

D. If a taxpayer has exhausted his local remedies as provided in subsection (C) above, the taxpayer may request a state hearing on such deficiency notice or claim for a refund, and such request shall be made and such hearing shall be conducted in the same manner as set forth in C.R.S. 29-2-106.1(3) through (7).

E. If the deficiency notice or claim for refund involves only the City, in lieu of requesting a state hearing, the taxpayer may appeal such deficiency notice or denial of a claim for refund to the District Court or the County of Delta as provided in C.R.S. 29-2-106.1(8); provided the taxpayer complies with the procedures set forth in subsection (C) of this Section.

F. If the City reasonably finds that the collection of sales or use tax will be jeopardized by delay, the City may utilize the procedures set forth in C.R.S. 39-21-111. (Ord. 1, §1(part), 1986)

3.04.200 Notices. Except as otherwise provided, all notices required to be given to the retailer shall be in writing and either mailed first class, postage prepaid, addressed to his latest mailing address on file with the City, or served upon the retailer as provided for service of process in civil actions. (Ord. 1, §1(part), 1986)

3.04.210 Authorization of use tax. There is hereby imposed and shall be collected from every person in this City a tax or excise at the rate of 3% of storage or acquisition charges or costs for the privilege of storing, using or consuming in this City any articles of tangible personal property purchased at retail. The tax shall be computed and collected in accordance with appropriate schedules promulgated by the City Manager. (Ord. 1, §1(part), 1986; Ord. 8, §1, 1991)

3.04.220 Exemptions. This tax or excise on the storage, consumption and use of tangible personal property is declared to be supplementary to the City tax on retail sales as provided in this Chapter and shall not apply to the following:

A. To the storage, use or consumption of any tangible personal property, the sale of which is subject to the City retail sales tax as provided herein.

B. To the storage, use or consumption of any tangible personal property purchased for resale in this City, either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business.

C. To the storage, use or consumption of motor fuel upon which there has accrued or has been paid the motor fuel tax prescribed by the Colorado Motor Fuel Tax Law of 1933, and amendments thereto, and which is not subject to refund.

D. To the storage, use or consumption of tangible personal property brought into the City by a nonresident thereof for his own storage, use or consumption while temporarily within the City, nor to the personal property of a resident, if such personal property was purchased prior to becoming a resident of the City.

E. To the storage, use or consumption of tangible personal property of the United States or the State or its institutions or its political subdivisions, in their governmental capacities only; or by religious, charitable or eleemosynary corporations in the conduct of their regular religious, charitable or eleemosynary functions.

F. To the storage of construction and building materials.

G. To the storage, use, or consumption of any article of tangible personal property the sale or use of which has already been subjected to a sales or use tax of another statutory or home rule municipality legally imposed on the purchaser or user equal to or in excess of 3%. A credit shall be granted against the City's use tax with respect to the person's storage, use, or consumption in the City of tangible personal property, the amount of the credit to equal the tax paid by him by reason of the imposition of a sales or use tax of the previous statutory or home rule municipality on his purchase or use of the property. The amount of credit shall not exceed 3%.

H. To the use or consumption of tangible personal property within the City which occurs more than three years after the most recent sale of the property if, within the three years following such sale, the property has been significantly used with the State for the principal purpose for which it was purchased.

I. Proration as Applied to Certain Construction Equipment:

(1) Construction equipment which is located within the boundaries of the City for a period of more than thirty consecutive days shall be subjected to the full applicable use tax of the City.

(2) Construction equipment which is located within the boundaries of the City for a period of thirty consecutive days or less shall be subjected to the City's use tax in an amount calculated as follows: the purchase price of the equipment shall be multiplied by a fraction, the numerator of which is one and the denominator is twelve, and the result shall be multiplied by 3%.

(3) Where the provisions of subsection (I)(2) are utilized, the credit provisions of subsection 5-15-22(G) shall apply at such time as the aggregate sales and use taxes legally imposed by and paid to other statutory and home rule municipalities on any such equipment equal 3%.

(4) In order to avail himself of the provisions of subsection (I)(2) of this Section, the taxpayer shall comply with the following procedure:

(a) Prior to or on the date the equipment is located within the boundaries of the City, the taxpayer shall file with the City an equipment declaration on a form provided by the City. Such declaration shall state the dates on which the taxpayer anticipates

the equipment will be located within and removed from the boundaries of the City, shall include a description of each such anticipated piece of equipment, shall state the actual or anticipated purchase price of each such anticipated piece of equipment, and shall include such other information as reasonably deemed necessary by the City.

(b) The taxpayer shall file with the City an amended equipment declaration reflecting any changes in the information contained in any previous equipment declaration no less than once every ninety days after the equipment is brought into the boundaries of the City for a project of less than ninety days duration, no later than ten days after substantial completion of the report.

(c) The taxpayer need not report on any equipment declaration any equipment for which the purchase price was under $2,500.

(5) If the equipment declaration is given as provided in subsection (I)(4) of this Section, then as to any item of construction equipment for which the customary purchase price is under $2,500 which was brought into the boundaries of the City temporarily for use on a construction project, it shall be presumed that the item was purchased in a jurisdiction having a local sales or use tax as high as 3%, and that such local sales or use tax was previously paid. In such case, the burden of proof in any proceeding before the City, the executive director of the department of revenue, or the district court, shall be on the City to prove such local sales or use tax was not paid.

(6) If the taxpayer fails to comply with the provisions of subsection (I) (4) of this Section, the taxpayer may not avail himself of the provisions of subsection (I)(2) of this Section and shall be subject to the provisions of subsection (I)(1) of this Section. However, substantial compliance with the provisions of subsection (I)(4) of this Section shall allow the taxpayer to avail himself of the provisions of subsection (I)(2) of this Section.

J. To the storage, use or consumption of cigarettes; drugs which would be disbursed by prescription; and prosthetic devices.

K. To the storage, use or consumption of tangible personal property for use in the business of manufacturing, compounding for sale, profit or use any article, substance or commodity which tangible personal property enters into the processing of or becomes an ingredient or component part of the finished product and the container, label or the furnished shipping case thereof.

L. To the storage, use or consumption of electricity, coal, coke, fuel oil or gas for use in processing, manufacturing, mining, refining, irrigation, telephone, telegraph, radio and television communication, street and railroad, transportation services and all industrial uses.

M. To the storage and use of tangible personal property purchased from a nonresident retailer by a common carrier, public utility company or a construction company being a resident of the City or doing business in the City, which is stored in the City but not used or consumed in the City. (Ord. 1, §1(part), 1986; Ord. 8, §1, 1991)

3.04.230 Monthly return, collection.

A. Every person subject to the provisions of Section 3.04.210 of this Chapter, who has not paid the sales and use tax imposed hereby to a retailer, on or before the twentieth day of each month, shall make to the City on forms provided by the City a return showing in detail the tangible personal property stored, used, or consumed by him within the City in the preceding calendar month which is subject to the tax herein imposed, and on which the tax has not been paid to a retailer. Such return shall be verified by oath or affirmation of the taxpayer or his agent and shall be accompanied by a remittance of the tax shown thereon to be due. Returns shall be reviewed by the City pursuant to the procedure of this Chapter for reviewing sales tax returns.

B. Every retailer doing business in the City and making sales of tangible personal property for storage, use, or consumption in the City, and not exempted as provided in Section 3.04.220, at the time of making such sales or taking the orders therefor, or, if the storage, use, or consumption of such tangible personal property is not then taxable under this Chapter, then at the time such storage, use, or consumption becomes taxable under this Chapter, shall collect the tax imposed by Section 3.04.210 from the purchaser and shall give to the purchaser a receipt therefor, which receipt shall identify the property, the date sold or the date ordered, and the tax collected and paid. The tax required to be collected by such retailer from such purchaser shall be displayed separately from the advertised price listed on the forms or advertising matter on all sales checks, orders, sales slips, or other proof of sales.

C. It is unlawful for such retailer or agent to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by such retailer or agent, or that it will not be added to the selling price of the property sold, or if added, that it or any part thereof will be refunded. The tax required to be collected by such retailer or agent shall be remitted to the City in like manner as otherwise provided in this Chapter for the remittance of sales taxes collected by retailers, and all such retailers or agents collecting the tax imposed by Section 3.04.210 shall make returns on forms provided by the City at such times and in such manner as is provided for the making of returns in the payment of the sales taxes. The procedure for assessing and collecting said taxes from such retailers or agents, or from the user when not paid to a retailer or agent, shall be the same as provided in this Chapter for the collection of sales taxes, including collection by distraint warrant, and said taxes due and owing from any retailer or agent for the storage, use, or consumption of tangible personal property shall bear interest and be subject to the same penalties as is provided in this article for nonpayment or delinquencies of sales tax.

D. All sums of money paid by the purchaser to the retailer as taxes imposed by this article shall be and remain public money, the property of the City in the hands or such retailer, and he shall hold the same in trust for the sole use and benefit of the City until paid

to the City. For failure to so pay to the City, such retailer shall be punished as provided by law. (Ord. 1, §1(part), 1986)

3.04.240 Tax constitutes lien--Exemption from lien.

A. The tax imposed by Section 3.04.210 shall be a first and prior lien on the tangible personal property stored, used, or consumed, subject only to any valid mortgage or other liens of record on and prior to the recording of notice as required by Section 3.04.170 and when such tax is collected by retailers or agents, shall be a first and prior lien on all the stock of goods or business fixtures of or used by such retailer excepting goods sold in the ordinary course of business, which lien shall have precedence over all other liens, whatsoever kind or nature, except as to pre-existing claims or liens of a bona fide mortgagee, pledgee, judgment creditor, or purchaser whose rights have attached prior to the filing of the notice on property of the taxpayer, other than the goods, stock in trade, and business fixtures of such taxpayer.

B. Upon default of payment thereof, the City, after demand upon the person owing such tax, may bring an action in attachment and seize property as authorized by this Section to secure the payment of said tax, interest, and penalties. In any such proceeding, no bond shall be required of the City, nor shall any sheriff require from the City an indemnifying bond for executing the writ of attachment or levy, and no sheriff shall be liable in damages when action in accordance with such writs. The remedies provided in this Section shall be in addition to all other remedies. (Ord. 1, §1(part), 1986)

3.04.250 Use tax--Neglect or refusal to make return or to pay. If a person neglects or refuses to make a return in payment of the use tax or to pay any use tax as required, the City shall make an estimate, based upon such information as may be available, of the amount of taxes due for the period for which the taxpayer is delinquent and shall add thereto a penalty equal to ten percent thereof and interest on such delinquent taxes at the rate imposed under Section 3.04.070 plus one-half of one percent per month from the date when due. Such amount shall be processed in the same manner as assessments for sales taxes under this Chapter. (Ord. 1, §1(part), 1986)

3.04.260 Penalty interest on unpaid use tax. Any use tax due and unpaid shall be a debt to the City, and shall draw interest at the rate imposed under Section 3.04.250 in addition to the interest provided by Section 3.04.070, from the time when due until paid. (Ord. 1, §1(part), 1986)

3.04.270 Vehicles. Any resident natural person who purchases any motor vehicle or other vehicle for which registration is required, whether new or used, outside the corporate limits of the City for use or storage within this City, shall be subject to the use tax imposed by Section 3.04.210, and shall make a return showing such transaction to the City, pay the use tax applicable thereto as provided in this Chapter, or shall pay such use tax to the County Clerk when

registering said vehicle. Registration of any vehicle at any address outside the City by a City resident or by a business with a principal place of business within the City with respect to a vehicle to be stored or used in the City shall constitute prima facie evidence of an attempt to willfully evade payment of City Sales and Use Tax. (Ord. 1, §1(part), 1986)

3.04.280 Limitations.

A. No sales or use tax, or interest thereon or penalties with respect thereto, shall be assessed, nor shall any notice of lien be filed, or distraint warrant issued, or suit for collection be instituted, nor any other action to collect the same be commenced, more than three years after the date on which the tax was or is payable; nor shall any lien continue after such period, except for taxes assessed before the expiration of such period, in which cases such lien shall continue only for one year after the filing of notice thereof. In the case of a false or fraudulent return with intent to evade tax, the tax, together with interest and penalties thereon, may be assessed, or proceedings for the collection of such taxes may be begun at any time. Before the expiration of such period of limitation, the taxpayer and the City may agree in writing to an extension thereof, and the period so agreed on may be extended by subsequent agreements in writing.

B. In the case of failure to file a return, the sales tax, use tax, or both, may be assessed and collected at any time. (Ord. 1(part), 1986)

3.04.290 Construction materials.

A. The sales and use tax imposed by this Chapter upon construction materials utilized in construction projects for which a City building, plumbing or mechanical permit is required shall be collected in accordance with this Section.

B. At the time the permit is issued, the three percent (3%) sales and use tax shall be assessed and collected upon the following percentages of the construction value (excluding land):

(1) On single-family residential new construction, fifty percent (50%) of the construction value.

(2) On other construction, the Building Inspector shall determine the percentage of construction value reasonably attributable to construction materials taxable by this Chapter for the particular type of construction involved.

C. When sales and use tax on construction materials has been prepaid pursuant to this Section, additional City sales and use taxes shall not be required to be paid nor shall any vendor be required to collect additional sales tax, when the construction materials are purchased, on the conditions that:

(1) The vendor delivers such materials to the site of the job for which the building permit was issued.

(2) The purchaser provides proof of the prepayment to the vendor in accordance with regulations issued by the City Manager.

D. Vendors of building materials shall keep records as required by the City Manager of the amount of sales made and charged

against each building permit for which sales and use taxes have been prepaid in accordance with this Section.

E. It is unlawful to use, or to aid or abet the use of a prepayment exemption granted in accordance with this Section to evade paying sales and use taxes on construction materials.

F. The exemption granted by subsection "C" for any permitted project shall terminate upon the issuance of an occupancy permit or upon expiration of a period of one year from the date of the issuance of the building permit, whichever occurs sooner; provided, however, the exemptions of subsection "C" may be extended upon a showing that the project for which the permit was issued has not been completed.

G. This method of sales and use taxes does not satisfy sales and use taxes imposed on furnishings, appliances and equipment such as stoves, refrigerators, drapes, carpets, rugs, furniture, etc., or anything other than the construction materials used in the project. (Ord. 1, §1(part), 1986; Ord. 5, 1991; Ord. 8, §1, 1991)

3.04.300 Sales and use tax--Map of municipal boundaries. The City shall make available to any requesting vendor a map showing the boundaries of the City. The requesting vendor may rely on such map and any update thereof available to such vendor in determining whether to collect a sales and use tax or both. No penalty shall be imposed or action for deficiency maintained against such a vendor who in good faith complies with the most recent map available to it. (Ord. 1, §1(part), 1986)

3.04.310 Penalty and remedies.

A. It shall be unlawful to willfully fail or refuse to make any sales or use tax return required in this Chapter, to willfully make a false or fraudulent sales or use tax return, to willfully fail to pay any sales or use tax owed, to aid or abet another in an attempt to evade payment or any sales or use tax, or to violate any provision of this Chapter.

B. Any person convicted of such a violation may be punished by a fine of up to $300, or a jail sentence of up to 90 days, or by both such fine and imprisonment; provided, however, no person under the age of 18 years shall be subject to any term of imprisonment, except for contempt of Court.

C. Nothing in this Chapter shall preclude the City from utilizing any other applicable penalties or remedies for the collection or enforcement of sales or use taxes. (Ord. 1, §1(part), 1986)

3.04.320 Use of proceeds of tax.

A. The tax moneys collected pursuant to this Chapter, as amended, from the first one percent of sales tax shall be used as follows:

(1) One hundred percent of the net revenue derived from such one percent City sales tax shall be put in the City-wide capital improvement fund.

(2) The use of all moneys derived from this first one percent of tax shall be for capital equipment and improvements within

the City, including but without limitations, sanitary sewers, storm sewers, subsurface drainage, streets, alleys, curbs, gutters, construction equipment and other public improvements; or these moneys may be transferred to another fund for expenditure of any of the aforementioned uses.

(3) An annual audit and statement shall be issued showing all expenditures, revenue and balance of funds. (Ord. 1, §1(part), 1986)

3.04.330 Amendments. The City Council may, by a majority vote, amend, alter, change and repeal this Chapter in whole or in part without submitting such change or repeal to the qualified electors for their approval; except, however, that the three percent rate herein imposed shall not be changed except upon the approval of a majority of the qualified electors of the City voting thereon at a regular or special election for the purpose of adopting or rejecting such amendment. (Ord. 1, §1(part), 1986; Ord. 8, §1, 1991)

3.04.340 Vendors' fee. (Repealed by Ord. 46, §1, 2001)

3.04.350 Coordinated audit.

A. Any taxpayer licensed in this City pursuant to Section 3.04.030, and holding a similar sales tax license in at least four other Colorado municipalities that administer their own sales tax collection, may request a coordinated audit as provided herein.

B. Within 14 days of receipt of notice of an intended audit by any municipality that administers its own sales tax collection, the taxpayer may provide to the Finance Director of this City, by certified mail, return receipt requested, a written request for a coordinated audit indicating the municipality from which the notice of intended audit was received and the name of the official who issued such notice. Such request shall include a list of those Colorado municipalities utilizing local collection of their sales tax in which the taxpayer holds a current sales tax license and a declaration that the taxpayer will sign a waiver of any passage-of-time base limitation upon this City's right to recover tax owed by the vendor for the audit period.

C. Except as provided in paragraph (G), any taxpayer that submits a complete request for a coordinated audit and promptly signs a waiver of any passage-of-time based limitation upon the City's right to recover taxes owed for the proposed audit period may be audited by this City during the twelve months after such request is submitted only through a coordinated audit involving all municipalities electing to participate in such an audit.

D. If this City desires to participate in the audit of a taxpayer that submits a complete request for a coordinated audit pursuant to paragraph (C), the Finance Director shall so notify the Finance Director of the municipality whose notice of audit prompted the taxpayer's request within ten days after receipt of the taxpayer's request for a coordinated audit. The Finance Director shall then cooperate with other participating municipalities in the development of arrangements for the coordinated audit, including arrangement of

the time during which the coordinated audit will be conducted, the period of time to be covered by the audit, and a coordinated notice to the taxpayer of those records most likely to be required for completion of the coordinated audit.

E. If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by this City, this City's Finance Director shall facilitate arrangements between this City and other municipalities participating in the coordinated audit unless and until an official from some other participating municipality agrees to assume this responsibility. The Finance Director shall cooperate with other participating municipalities to, whenever practicable, minimize the number of auditors that will be present on the taxpayer's premises to conduct the coordinated audit on behalf of the participating municipalities. Information obtained by and on behalf of those municipalities participating in the coordinated audit may be shared only among such participating municipalities.

F. If the taxpayer's request for a coordinated audit was in response to a notice of audit issued by this City, this City's Finance Director shall, once arrangements for the coordinated audit between the City and other participating municipalities are completed, provide written notice to the taxpayer of which municipalities will be participating, the period to be audited and the records most likely to be required by participating municipalities for completion of the coordinated audit. The Finance Director shall also propose a schedule for the coordinated audit.

G. The coordinated audit procedure set forth in this Section shall not apply:

1. When the proposed audit is a jeopardy audit;

2. To audits for which a notice of audit was given prior to the effective date of this Section;

3. When a taxpayer refuses to promptly sign a waiver of any provisions that could limit, based upon passage of time, the City's right to recover for a portion of the audit period; or

4. When a taxpayer fails to provide a timely and complete request for a coordinated audit as provided in paragraph (B). (Ord. 12, §5(part), 1991)

3.04.360 Intercity claims for recovery.

A. The intent of this Section is to streamline and standardize procedures related to situations where tax has been remitted to the incorrect municipality. It is not intended to reduce or eliminate the responsibilities of the taxpayer or vendor to correctly pay, collect and remit sales and use taxes to the City.

B. As used herein, "claim for recovery" means a claim for reimbursement of sales and use taxes paid to the wrong taxing jurisdiction.

C. When it is determined by the City that sales and use tax owed to the City has been reported and paid to another municipality, the City shall promptly notify the vendor that taxes are being improperly collected and remitted, and that as of the date of the notice the vendor must cease improper tax collections and remittances.

D. The City may make a written claim for recovery directly to the municipality that received the tax and/or penalty and interest owed to the City, or, in the alternative, may institute procedures for collection of the tax from the taxpayer or vendor. The decision to make a claim for recovery lies in the sole discretion of the City. Any claim for recovery shall include a properly executed release of claim from the taxpayer and/or vendor releasing its claim to the taxes paid to the wrong municipality, evidence to substantiate the claim, and a request that the municipality approve or deny in whole or in part, the claim within ninety (90) days of its receipt. The municipality to which the City submits a claim for recovery may, for good cause, request an extension of time to investigate the claim, and approval of such extension by the City shall not be unreasonably withheld.

E. Within ninety (90) days after receipt of a claim for recovery, the City shall verify to its satisfaction whether or not all or a portion of the tax claimed was improperly received, and shall notify the municipality submitting the claim in writing that the claim is either approved or denied in whole or in part, including the reasons for the decision. If the claim is approved in whole or in part, the City shall remit the undisputed amount to the municipality submitting the claim within thirty (30) days of approval. If a claim is submitted jointly by a municipality and a vendor or taxpayer, the check shall be made to the parties jointly. Denial of a claim for recovery may only be made for good cause.

F. The City may deny a claim on the grounds that it has previously paid a claim for recovery arising out of an audit of the same taxpayer.

G. The period subject to a claim for recovery shall be limited to the thirty-six (36) month period prior to the date the municipality that was wrongly paid the tax receives the claim for recovery. (Ord. 12, §5(part), 1991)

3.04.370 Notice of sales and use tax ordinance amendment.

A. In order to initiate a central register of sales and use tax ordinances for municipalities that administer local sales tax collection, the Finance Director of the City shall file with the Colorado Municipal League prior to the effective date of this Section a copy of the City sales and use tax ordinance reflecting all provisions in effect on the effective date of this Section.

B. In order to keep current the central register of sales and use tax ordinances for municipalities that administer local sales tax collection, the Finance Director of the City shall file with the Colorado Municipal League prior to the effective date of any amendment a copy of each sales and use tax ordinance amendment enacted by the City.

C. Failure of the City to file such ordinance or ordinance amendment pursuant to this Section shall not invalidate any provision of the sales and use tax ordinance or any amendment thereto. (Ord. 12, §5(part), 1991)

3.04.380 Participation in simplification meetings. The Finance Director shall cooperate with and participate on an as needed basis with a permanent statewide sales and use tax committee convened by the Colorado Municipal League which is composed of state and municipal sales and use tax officials and business officials. Said committee will meet for the purpose of discussing and seeking resolution to sales and use tax problems which may arise. (Ord. 12, §5(part), 1991)

Chapter 3.08

TELEPHONE UTILITIES TAX

Sections:

3.08.010 Levy of tax. There is levied on and against each telephone company operating within the City a tax on the occupation and business of maintaining a telephone exchange and lines connected therewith in the City and of supplying local exchange telephone service to the inhabitants of the City. The amount of the tax levied shall be ten thousand five hundred dollars for each calendar year until such time as the City Council repeals or amends this Section, or $4.50 per local exchange account, whichever is less. (Ord. 6, §1(a), 1980; Ord. 17, §1, 2001)

3.08.020 Time of payment. The tax levied by Section 3.08.010 shall begin to accrue on the first day of April, 1980, and shall be due and payable in four equal quarterly installments, each installment to be paid on the last business day of the months of March, June, September and December. (Ord. 6, §1(c), 1980)

3.08.030 Failure to pay. If each telephone company, subject to the provisions of this Chapter, shall fail to pay the taxes provided for in this Chapter, the full amount thereof shall be due and collectable from such company, and the same together with an addition of ten percent of the amount of taxes due shall and is declared to be a debt due and owing from each telephone company to the City. The City Attorney, upon direction of the City Council, shall commence and prosecute to final judgment and determination in any court of competent jurisdiction an action of law to collect the debt. (Ord. 1, §5, 1979; Ord. 17, §1, 2001.)

3.08.040 Local purpose, The tax herein provided is upon occupations and businesses in the performance of local functions and is not a tax upon those functions relating to interstate

commerce. It is expressly understood that none of the terms of this Chapter be construed to mean that any telephone utility company is issued a franchise by the City. (Ord. 1, §6, 1979)

3.08.050 Filing statement. Each telephone company, subject to this Chapter, shall file with the finance director, in such form as may be required, a statement showing the total telephone accounts for which local exchange telephone service was provided within the corporate limits of the City. Such statement shall be filed annually, for each calendar year, and shall be due by the end of February of each year for the previous calendar year. (Ord. 1, §7, 1979; Ord. 17, §1, 2001)

3.08.060 Failure to file statement. If any officer, agent or manager of each telephone company shall fail, neglect or refuse to make or file the annual statement of accounts provided in Section 3.08.050, the officer, agent, manager or person shall, on conviction thereof, be punished by a fine not less than twenty-five dollars nor more than three hundred dollars, provided that each day after such statement becomes delinquent during which the officer, agent, manager or person shall so fail, neglect or refuse to make and file such statement shall be considered a separate and distinct offense. (Ord. 1, §8, 1979; Ord. 17, §1, 2001)

Title 5

BUSINESS TAXES, LICENSES AND REGULATIONS

Chapters:

Chapter 5.04

CARNIVALS

Sections:

5.04.010 Carnivals.

A. It shall be unlawful for any person to manage, operate or to carry on any carnival, circus or similar business which has rides or large tents, unless a license has been issued by the City.

B. Applications for such license shall be made to the City and shall include the following information:

1. The name, address and telephone number of the owners, operator and local manager.

2. The dates and places at which the business is to be conducted, and a description of the facilities and activities to be involved.

3. Any other information required by the City to administer the provisions of this Section and other regulations and ordinances of the City.

C. The application shall be accompanied by a payment of a license fee of $20.00 per day and by a certificate of insurance that the applicant has liability insurance for bodily injury of not less than two hundred thousand dollars ($200,000) per person; one million dollars ($1,000,000) per incident, issued by

an insurance company lawfully doing business in the State of Colorado.

D. Applicant shall deposit with the City the amount of two thousand five hundred dollars ($2,500) in cash as a bond, conditioned upon no damage to public or private property, collection and payment of all City sales and use taxes, and that all private and public property shall be properly cleaned and picked up following the completion of the carnival. Such bond shall be returned to the applicant upon compliance with the above conditions.

E. The City Manager shall issue a license to any applicant meeting all the requirements of this Section. Such license may be revoked by the City Council following a hearing upon reasonable notice to the applicant thereof, for any violation of any of the provisions of this Section, or any other applicable ordinances or regulations of the City of Delta. In the event of any immediate threat to the public health, safety or welfare, such license may be temporarily suspended by the City Manager pending such a hearing. (Ord. 3, §4(part), 1987)

Chapter 5.06

TRANSIENT MERCHANTS

Sections:

5.06.010 Definitions. For the purpose of this Chapter, the following definitions shall apply unless in conflict with the context or plain meaning.

Transient Merchant: Any person, whether a resident of the City or not, who engages in the business of selling or soliciting orders for goods or services, who does not have a regularly established place of business within Delta County, and includes transient drummers, peddlers, hawkers and salesmen. Provided, however, wholesalers; real estate and insurance agents licenses by the State; persons engaged in non-commercial religious activities; persons selling only religious literature; persons soliciting donations not involving any sales; persons representing Delta County non-profit organizations, and retailers with a Delta sales tax license who have collected and paid City sales and use taxes for the preceding year without delinquency, shall not be subject to the provisions of this Chapter. (Ord. 3, §4(part), 1987)

5.06.020 License required.

A. It shall be unlawful for any transient merchant to engage in the business of a transient merchant without obtaining a license from the City in accordance with this Chapter or being sponsored as provided in Section 5.06.040 of this Chapter.

B. A license application shall be filed with the City on forms furnished by the City, and shall provide the following information:

1. The name and address of the applicant and each employee or agent thereof, who will engage in business within the City.

2. A description of the nature of the business and goods or services offered, and the locations within Delta in which the business will be conducted.

C. Accompanying the application shall be an application fee in the amount of twenty-five dollars ($25.00).

D. A surety bond in the amount of one thousand dollars ($1,000) shall be submitted conditioned upon:

1. Compliance with all ordinances of the City, and statutes of the State, including payment of all City, County and State taxes and fees, and

2. Payment of any judgment rendered in favor of a resident or business of the City against the applicant or any of his agents or employees, shall be submitted with the application.

Such bond shall remain in effect for a minimum period of nine (9) months beyond the expiration date of the transient merchant license issued to the applicant. The bond must be approved by the City Attorney prior to the issuance of the license. In lieu of a bond, the applicant may deposit one thousand dollars ($1,000) in cash, to be held by the City upon the same conditions provided above, which amount shall be returned to the applicant following compliance with the above stated conditions.

E. Also submitted with the application shall be an instrument appointing the City Clerk as the true and lawful agent with full power and authority to acknowledge service of process for and on behalf of the applicant, and each of his agents or employees, upon a form to be provided by the City. If any process is served upon the City Clerk, the City shall send a copy of such process to the applicant at the address listed on the application by registered or certified mail. (Ord. 3, §4(part), 1987)

5.06.030 Issuance of license.

A. Following receipt of a properly completed application accompanied by the bond, appointment of agent for service of process, and the application fee, the City shall issue a transient merchant's license for a term of ninety (90) days.

B. The license shall state the expiration date and describe the goods or services to be offered. The license shall contain a notice to customers that a one thousand dollar ($1,000) bond has been filed with the City, conditioned on compliance with all City ordinances and State laws, and the payment of any judgment rendered against the applicant in favor of a resident of the City, and that the City Clerk is the licensee's agent for service of process.

C. The applicant shall post a copy of the license at his place of doing business. The applicant and each employee or agent shall carry his copy of the license with him at all times,

and produce it upon request to any customer, police officer, or other agent or employee of the City. (Ord. 3, §4(part), 1987)

5.06.040 Local sponsor.

A. In lieu of the provisions of Sections 5.06.020 and 5.06.030, a transient merchant may be sponsored by a merchant with an established place of business within the City who has paid City sales taxes without delinquency for the previous year.

B. The sponsoring merchant shall file a sponsor letter with the City, on forms provided by the City, in which the sponsoring merchant shall take responsibility for the business related acts of the transient merchant and each agent or employee thereof, and shall guarantee payment of all City, County and State taxes due or judgment rendered against the transient merchant as a result of the business, and shall act as the transient merchant's agent for service of process, and handling of warranty and customer complaints.

C. After approval of the sponsor letter by the City, the transient merchant may conduct the business described thereon. The applicant and each agent of employee shall carry a copy of the approved letter and produce it upon request of any police officer, employee or agent of the City, or any customer. A copy shall be posted at the transient merchant's place of business.

D. In addition to the provisions of subsections A, B and C of this Section, transient merchants participating in a civic event sponsored by a Delta County Civic Organization may be sponsored by such organization in lieu of the provisions of Sections 5.06.020 and 5.06.030 if

1. the sponsor has obtained a "Civic Event" sales tax license or if each transient merchant in the event has obtained any required individual sales tax license and

2. the City approves such sponsorship pursuant to this subsection. The sponsoring civic organization shall file a sponsor application with the City on forms provided by the City listing each transient vendor participating in the civic event and other information convenient for the administration of this provision. (Ord. 3, §3, 1988; Ord. 3, §4(part), 1987)

5.06.050 Revocation of license.

A. The license issued hereunder may be revoked by the City Council following notice and hearing on account of any material misstatement contained in the application, any violation of this Chapter, any violation of other City ordinances and regulations applicable to the business activity of the applicant, or upon conviction of any felony.

B. Notice of hearing shall be either served upon the applicant in accordance with the Colorado Municipal Court Rules

of Procedure or mailed, postage prepaid, to the applicant at the address set forth in the application for license.

C. No license shall be issued to any applicant, or agent or employee thereof, for whom a license has been revoked, until at least one year has elapsed since revocation. (Ord. 3, §4(part), 1987)

5.06.060 Interstate commerce provisions. In the event any applicant believes that the license fee required by this Chapter constitutes an undue burden upon interstate commerce, he may apply to the City Council for an adjustment in the amount of the fee, in which event a hearing shall be heard before the Council to consider the matter. The applicant may appear and present such evidence as he may desire at the hearing. Following the hearing, the Council shall determine a license fee which is fair and reasonable and does not constitute a burden on interstate commerce. (Ord. 3, §4(part), 1987)

Chapter 5.08

ALCOHOLIC BEVERAGE OCCUPATION TAX

Sections:

5.08.010 Occupation tax imposed. There is hereby levied and assessed an annual occupation tax upon the business of selling alcoholic beverages at retail within the City of Delta, Colorado, in amounts as specified in Section 5.08.030. (Ord. 16, §1(part), 1984)

5.08.020 Liability for tax. Any person holding an alcoholic beverage license issued and approved pursuant to the Colorado Liquor Code or the Colorado Beer Code by the City of Delta and the State of Colorado, and any person operating a business licensed pursuant to the Colorado Liquor Code and Colorado Beer Code by virtue of any contract or management agreement shall be jointly, severably liable for the tax imposed by this Chapter. (Ord. 16, §1(part), 1984)

5.08.030 Amount of tax. The amount of tax due shall be determined by the type of alcoholic beverage license which is held in accordance with the following schedule:

Hotel and Restaurant License	$400.00
Tavern License	$500.00
Retail Liquor Store License	$300.00
Drug Store License	$300.00
Club License	$200.00
3.2% Beer License for off-premises consumption	$150.00
3.2% Beer License for on-premises consumption with full restaurant services	$150.00
3.2% Beer License for on-premises consumption with only sandwiches or light snacks	$300.00
3.2% Beer License for on- or off-premises sale held by non-profit veterans organizations	$150.00
Beer and Wine License	$250.00
Arts License	$250.00
Any other type license not listed above	$250.00

(Ord. 16, §1(part), 1984)

5.08.040 Payment of tax.

A. The tax imposed by the article shall be paid annually in advance within 30 days following the effective date of the alcoholic beverage license. Interest shall accrue on all delinquent taxes until paid at the rate of 1% per month.

B. Upon receipt of the tax, the City shall deliver to the licensee a receipt which shall be kept posted in a conspicuous place at the licensed premises (Ord. 16, §1(part), 1984)

5.08.050 Remedies.

A. It shall be unlawful to violate any provision of this Chapter or to fail to pay the tax imposed hereby.

B. The City may maintain an action for any amount due pursuant to this Chapter in a court of competent jurisdiction.

C. The tax imposed by this Chapter shall be a lien upon the goods, inventory, and business fixtures and any other real or personal property used in the business by any person liable for payment of this tax, which may be foreclosed by the City pursuant to law.

D. The City may certify any delinquent taxes as a delinquent charge to the Delta County Treasurer to be collected similarly to delinquent ad valorem taxes against any real or personal property used by the taxpayer in the conduct of the business. (Ord. 16, §1(part), 1984)

Chapter 5.10

ALCOHOLIC BEVERAGES

Sections:

5.10.010 Licensing authority. The Delta City Council is hereby designated the local licensing authority for the purposes of exercising the duties and powers provided for in the Colorado Beer Code and the Colorado Liquor Code. (Ord. 3, §5(part), 1987)

5.10.020 Definitions. As used in this Chapter, the following terms shall have the meanings ascribed to them in this Section:

A. "Alcoholic beverage" shall mean any "fermented malt beverage" as defined by the Colorado Beer Code and all "malt, vinous or spirituous liquors" as defined by the Colorado Liquor Code; including, but not limited to, beverages commonly known as liquor, wine and beer with an alcoholic content of more or less than 3.2% by weight.

B. "Fermented malt beverage" shall mean any beverage defined as such by the Colorado Beer Code including, but not limited to, beverages commonly referred to as "3.2% beer" or beer containing not more than 3.2% alcohol by weight.

C. "Malt, vinous or spirituous liquors" shall have the meaning as defined by the Colorado Liquor Code, and shall include, but not be limited to, liquor, wine, and beer having more than 3.2% alcohol content by weight. (Ord. 3, §5(part), 1987)

5.10.030 Unlawful acts. It shall be unlawful for any person to commit any of the following acts:

A. To consume any alcoholic beverage in or at any public place within the City of Delta, Colorado, including but not limited to the following public places: restaurants, retail liquor store, pool halls, dance halls, business premises, school premises, recreation halls, public buildings, places of public gathering for amusement or entertainment, parking areas or the

surrounding premises of any of the aforementioned places, and streets, alleys, sidewalks, vacant lots or publicly owned property; provided however, this provision shall not apply to premises licensed for consumption thereon pursuant to law.

B. To possess an unsealed or open container containing any alcoholic beverage in any public place, including but not limited to the following public places: restaurants, retail liquor stores, pool halls, dance halls, business premises, school premises, recreation halls, public buildings, places of public gathering for amusement or entertainment, parking areas surrounding premises of any of the aforementioned places, and streets, alleys, sidewalks, vacant lots or publicly owned property; provided however, that this provision shall not apply to premises licensed for consumption thereon pursuant to law.

C. For any person owning or having possession of any premises to allow the consumption of an alcoholic beverage container upon such premises by any such person in violation of subsections (A) and (B) of this Section.

D. For any person under the age of 21 years old to purchase, possess or consume any alcoholic beverage except that a person who was 18 years of age or older on July 29, 1987 may continue to purchase and consume fermented malt beverages.

E. To provide, sell, distribute or give any alcoholic beverage to any person under the age or 21 years, except that fermented malt beverages may be provided, sold, distributed or given to persons who were 18 years of age or older on July 29, 1987. (Ord. 3, §5(part), 1987; Ord. 3, §1, 1989)

5.10.040 Permits. Any regularly organized lodge or group may apply to the Police Department of the City and the Chief of Police or his designated representative for a permit to consume and possess alcoholic beverages and 3.2% beer in the public places set forth in subsection 15.10.010(A) and to possess unsealed or open containers of alcoholic beverages and 3.2% beer prohibited in subsection 5.10.030(B) upon forms and pursuant to regulations adopted by the Police Department of the City. Any such permit granted shall specify the time and place where the permit may be used. Such activity shall likewise be subject to police control and regulation and to prior determination of the permit at the discretion of the Police Department for improper conduct of the applicant. (Ord. 3, §5(part), 1987)

5.10.050 Presumptions.

A. It shall be prima facie evidence that any beverage or liquid is an alcoholic beverage if it is or was contained within a container labeled as an alcoholic beverage container of any

sort and if it either looks like, smells like or tastes like an alcoholic beverage.

B. Except for those offenses in this Chapter which specifically involve only malt, vinous or spirituous liquors, it shall not be necessary in order to prove a violation of any provision of this Chapter to distinguish between beers having more or less than 3.2% alcohol by weight or to offer proof as to the alcoholic content of the beer or other malt liquors or fermented malt beverage involved. (Ord. 3, §5(part), 1987)

5.10.060 Optional premises. In addition to any applicable requirements and standards incorporated into the Colorado Liquor Code and regulations, the following specific standards and procedures shall apply to the issuance of optional premises licenses or permits within the City of Delta:

A. No optional premises license or permit shall be issued for any outdoor sports or recreational facilities other than golf courses (excluding miniature golf courses) which include at least nine holes and are open to the public.

B. A completed application for an optional premises license or permit shall be filed with the City Clerk, together with all applicable local and state license fees.

C. The application shall be accompanied by a map or drawing indicating the location of the optional premises, and a copy of the deed, lease or other instrument by which the applicant has legal possession of the optional premises.

D. No alcoholic beverages may be served on licensed optional premises without the licensee having provided written notice to the state and local licensing authorities forty-eight (48) hours prior to serving alcoholic beverages on the optional premises. Such notice shall contain the specific days and hours on which the optional premises are to be used.

E. All optional premises licenses or permits shall be valid for a period of one (1) year from the date of issuance, unless revoked or suspended, and must be renewed annually thereafter. (Ord. 14, §1, 2003)

Chapter 5.16

MERCHANT PATROLS

Sections:

5.16.010 Definition. "Merchant patrol" means any person, firm or corporation who conducts or is engaged in the business of keeping a surveillance upon business, industrial or similar premises during the time that such premises are not open for business or are not occupied for the purposes of ascertaining that such premises are safe and secure, that lights are turned out, doors are locked, windows are intact and, generally, to determine whether any suspicious circumstances exist which would indicate unlawful trespassing or other illegal interference with such premises. The term "merchant patrol" shall not include an individual or a firm duly licensed by the state as a detective agency if such individual or firm is only keeping a specific premises under surveillance for a specific period of time and notifies the chief of police of such surveillance in advance thereof. (Ord. 13, §1, 1975)

5.16.020 Special police commission required. It is unlawful for any individual, partnership or corporation to own or operate a merchant patrol business or engage in business as a merchant patrol except as provided herein and authorized by this Chapter and without first having obtained a special police commission from the City. (Ord. 13, §2, 1975)

5.16.030 Application for commission. There shall be submitted with the application for a merchant patrol commission the following:

A. An affidavit setting out the full name, age, residence, present occupation and occupations for the preceding five years shall be submitted by each individual applicant and by each employee of an individual, partnership or corporate applicant except stenographic and clerical employees. Such affidavit shall show sufficient facts to prove the good character, competency, and integrity of each such affiant and shall list any previous police record.

B. Each affidavit shall be supported by statements in writing from not less than five reputable citizens, each of whom shall certify that he has personally known the affiant for a period of at least five years prior to the filing of the aforesaid affidavit and that he believes the affiant is competent, honest and of good character and that he would recommend to the City Manager that the affiant is suitable to engage in the merchant patrol business. (Ord. 13, §3, 1975)

5.16.050 Form of application. All applications for commissions under this Chapter shall be submitted in duplicate to the City Clerk, together with the foregoing supporting documents on such forms as may be prescribed by the City Manager. (Ord. 13, §4, 1975)

5.16.050 Fees. The annual commission fees for individuals, partnerships and corporations engaged in the business of merchant patrol as herein defined shall be as follows:

A. Individuals, five dollars;

B. Partnerships, ten dollars;

C. Corporations, fifteen dollars. (Ord. 13, §5, 1975)

5.16.060 Bond required. The individual, partnership or corporation applying for a commission under this Chapter shall furnish a good and sufficient bond on a corporate bonding company approved by the City Manager in the sum of five thousand dollars conditioned on the faithful observance of this Chapter and honest conduct of all watching, guarding or protecting undertaken by the individual, partnership or corporation licensed hereunder. Such bond shall be payable to the City and to any person, firm or corporation who has been injured by a willful, wanton or dishonest act of such licensee or any of its employees. (Ord. 13, §6, 1975)

15,16.070 Issuance or denial of commission--Prohibitions of transference. The Chief of Police, with approval of the City Manager, shall find after investigation that the requirements set forth in this Chapter have been met and that the character, competency, integrity and physical qualifications of all those whose names appear on the application for the commission and all those employed by the applicant are such as to command the confidence of the public and to warrant belief that the business will be operated lawfully, honestly, fairly and efficiently, the City Clerk shall thereupon issue and deliver to the applicant a special police commission. Action upon applications shall be made within a reasonable time. The City Council may issue the special commission contingent upon such matters or occurrences as it may specify. (Ord. 8, §1, 1983)

5.16.080 Suspension or revocation of commission. The City Council shall have the authority to revoke any commission issued under this Chapter for the following reasons:

A. That the applicant or any employee of the applicant has been convicted of a felony under the laws of the United States or under the laws of any state or territory of the United States;

B. That the applicant or any employee of the applicant has failed to report a crime to the police department or has failed to report circumstances to the police department which should have put him on notice that a crime has been committed;

C. That the applicant has failed to comply with the requirements set forth in this Chapter:

D. That the Council finds and determines that the public interest requires a suspension or revocation;

E. Any exercise of police authority not granted under this Chapter. (Ord. 13, §8, 1975)

5.16.090 Scope of authority. The authority granted under this Chapter shall be limited to the premises of the employer unless a merchant patrolman is called upon for assistance by an officer of the police department. A merchant patrol shall have no power to arrest except that afforded any private citizen. (Ord. 13, §10, 1975)

5.16.100 Badges, uniforms and equipment. All badges, uniforms and equipment used by individuals, partnerships or corporations engaged in the merchant patrol business shall be sufficiently distinctive to avoid confusion in the mind of the public with badges, uniforms and equipment of local law enforcement agencies. (Ord. 13, §11, 1975)

5.16.110 Suspicious circumstances. It shall be the duty of every person engaged in merchant patrol work to report break-ins and suspicious circumstances to the police department as soon as possible and to cooperate with the police department in the investigation of the same whenever requested to do so, but such person shall not attempt to investigate the suspicious circumstances himself. (Ord. 13, §12, 1975)

5.16.120 Report of customers. A report of all customers of the merchant patrol will be currently provided the police department and a monthly written report shall be furnished the department of all premises of such customers found unsecured during the regular check of the premises. (Ord. 13, §13, 1975)

5.16.130 Authority to carry firearms. Authority to carry concealed firearms shall be limited to that time when the member of the merchant patrol is engaged in the performance of his required duties and while en route to and from such duties, and each patrolman shall obtain a written permit from the Chief of Police before carrying a weapon. (Ord. 13, §14, 1975)

5.16.140 Additional rules and regulations. The Chief of Police may issue such further rules and regulations not inconsistent with the provisions herein as may be in the interest of the general public health, safety and welfare of the citizens of the City. (Ord. 13, §15. 1975)

5.16.150 Violation--Penalty. Any violation of this Chapter shall constitute a misdemeanor and shall be punished accordingly as set forth in this Code. (Ord. 13, §16, 1975)

Chapter 5.20

PAWNBROKERS

Sections:

5.20.010 License required.

A. It shall be unlawful for any person to engage in the business of being a pawnbroker, as defined and regulated by C.R.S. 12-56-101, et. seq., without obtaining a license from the City.

B. Applications for licenses shall be submitted annually on forms provided by the City which may require all information necessary or convenient for the enforcement and administration of this Chapter accompanied by the following:

1. An annual license fee in the amount of $75.00 (payable in advance).

2. A good and sufficient bond, with surety, to be approved by the City Attorney in the amount of $2,000, conditioned upon the faithful observance of the requirements of this Chapter and of C.R.S. 12-56-101, et. seq., and for the safekeeping or return of all articles held on pledge by the pawnbroker.

3. "All-risk" property insurance insuring all pledged property against loss from fire, theft or other casualty.

C. The City Manager, after receipt of any application, shall conduct an investigation to insure that the applicant and application meet all of the requirements of this Chapter. If the City Manager determines that the application meets the requirements of this Chapter, he shall grant a license which shall expire on December 31 of the year for which it is issued. In the event the applicant or application does not meet all the requirements of this Chapter, the City Manager shall deny the license.

D. All licenses shall be non-transferable.

E. The City Council may revoke any license following notice to the licensee and a hearing upon a finding that the

licensee is in violation of any of the requirements of this Chapter. (Ord. 18, §1(part), 1984)

5.20.020 Requirements for issuance of license.

A. No license required by this Chapter shall be issued to or held by any of the following:

1. Any person who is not of good moral character.

2. Any corporation, any of whose officers, directors or stockholders holding over 10% of the outstanding and issued capital stock thereof, are not of good moral character.

3. Any partnership, association or company, any of whose officers or any of whose members holding more than 10% interest therein, are not of good moral character.

4. Any person who is not satisfactory to the City with respect to his character, record and reputation.

B. In making a determination as to character, when considering the conviction of a crime, the City shall be governed by the provisions of C.R.S. 24-5-101.

C. No license shall be issued for, or used in connection with, any premises licensed under the Colorado Beer Code or the Colorado Liquor Code, or for any place of amusement or entertainment. (Ord. 18, §1(part), 1984)

5.20.030 Requirements for pawnbroking.

A. All pawnbrokers shall comply with the requirements of C.R.S. 12-56-101, et. seq., the requirements of this Chapter, and of any regulations issued pursuant thereto.

B. No pawnbroker shall acquire any property from any person who the pawnbroker knows has a reputation of being a thief or has been convicted of theft or a similar offense without first notifying the City Manager or a member of the police department.

C. It shall be unlawful for any pawnbroker to be open for business on Sunday, New Year's Day, Christmas Day or on any day from 9:00 p.m. in the evening until 8:00 a.m. the following morning.

D. No pawnbroker shall enter into any transaction with any person under the influence of alcohol or drugs. (Ord. 18, §1(part), 1984)

5.20.040 Hold order. The City Manager or any police officer may order a pawnbroker to hold any article in his custody for purposes of investigation of theft or similar offense by the police department. No sale or any disposition of any such article may be made until the hold order is vacated.

5.20.050 Additional regulations. The City Manager shall make such additional rules and regulations as are necessary and convenient for the administration and enforcement of this Chapter, including required forms and requirements for additional reports. (Ord. 18, §1(part), 1984)

5.20.060 Return of stolen property. Notwithstanding any other provision of law, a pawnbroker who accepts in pledge any article as security for a loan from a person who is not the lawful owner thereof shall obtain no interest in such article in derogation of the rights of the lawful owner either by maturation of the loan, by transference of the pawn ticket to the pawnbroker, or otherwise, regardless of whether or not pawnbroker knew such person was not the lawful owner of the article. In the event of sale of such article to a third person, the pawnbroker shall be liable to the lawful owner of the article. The lawful owner of any such article may recover it from a pawnbroker, upon proof of ownership. (Ord. 18, §1(part), 1984)

5,20.070 Liability. The licensee shall be liable for the loss or damage of any pledged article whether caused by fire, theft, or otherwise, resulting from his failure to exercise reasonable care; but he shall not be liable, in the absence of the express agreement to the contrary, for the loss or damage to a pledged article which could not have been avoided by the exercise of such care. The pawnbroker shall maintain at all times commercially reasonable casualty insurance insuring pledged property against loss or damage. (Ord. 18, §1(part), 1984; Ord. 19, §1, 1989)

5.20.080 Right of inspection. For the purpose of administering and enforcing the requirements of this Chapter and C.R.S. 12-56-101, the City Manager or his authorized representative shall have the right to enter upon the licensee's premises and examine the books, accounts, papers, records and pledged property used or kept by any licensed pawnbroker or other person engaged in the business of pawnbroking. If any licensee shall refuse such access or inspection, the City Manager shall have recourse, as provided by law, including obtaining a warrant from the Municipal Court. He may also issue a subpoena duces tecum for a hearing before the City Manager or City Council, which subpoena may be enforced by the District Court or other court of competent jurisdiction. (Ord. 18, §1(part), 1984)

Chapter 5.24

PEDDLERS AND SOLICITORS

Sections:

5.24.010 Going upon private residences a nuisance. The practice of going in and upon private residences in the City by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise not having been requested or invited to do so by the owner or owners, occupant or occupants of such private residences, for the purpose of soliciting orders for the sale of goods, wares and merchandise, or for the purpose of disposing of the same,is forbidden and declared to be a nuisance and punishable as such nuisance as a misdemeanor. (Prior Code §5-5)

5.24.020 Police department to abate. The Chief of Police and other policemen of the City are required and directed to suppress the same and to abate any such nuisance as is described in Section 5.24.010. (Prior Code §5-6)

5.24.030 Violations. Any persons perpetrating a nuisance as described and prohibited in Section 5.24.010 shall be guilty of a misdemeanor. (Prior Code §5-7)

5.24.040 Exception. Nothing herein contained shall prevent a farmer, fruit grower or truck gardener from offering or selling his or her products of the soil to the inhabitants of the City. (Prior Code §5-8)

Chapter 5.28

POLICE ALARM SYSTEMS

Sections:

5.28.010 License required.

A. It shall be unlawful for any person to install or maintain police alarm systems in the City without first having obtained a police alarm system contractor's license. This requirement shall not apply to persons who sell systems but do not install or maintain them, nor to persons who install and maintain their own systems.

B. A license application shall be filed with the City on forms furnished by the City and shall provide at the minimum the following information:

1. The name and address of the applicant and each employee or agent who will engage in business within the City on behalf of the applicant, and except for a corporation a stock of which is traded publicly, the name and address of any person owning more than a ten percent (10%) interest in the applicant.

2. Information concerning any criminal record of such persons and other background information.

3. Fingerprint cards of all persons who will be doing installation and maintenance work within the City.

C. Accompanying the application shall be an application fee in the amount of $75.00, along with a ten thousand dollar ($10,000) surety bond in a form approved by the City guaranteeing the faithful and honest conduct of business under the license running in favor of the City and customers of the applicant.

D. Licenses shall expire on December 31 of each year and may be renewed by submitting an application with any updated information and a $25.00 renewal fee.

E. A license may be revoked by the City Council following notice and hearing for a violation of this Chapter, or the criteria for a license, or on account of failure to install or maintain police alarm systems in a good and workmanlike manner. (Ord. 2, §1(part), 1990)

5.28.020 Investigation and issuance of license.

A. Following receipt of a properly completed application, the City shall conduct a background investigation of the applicant, its agents, employees and owners to determine if they are of good moral character.

B. The City shall issue the license unless it is determined that the application is deficient, the applicant or any of its officers, agents or owners are not of good moral character, a misleading or fraudulent statement of a material fact has been submitted with the application, or the applicant has had a similar type permit previously revoked for cause within the past year.

C. If the criteria for issuance of a license are met, a license shall be issued to the applicant along with identification cards which shall be carried by those persons doing business within the City.

D. Any applicant whose application is denied may appeal the denial to the City Council which shall decide the matter following a hearing with reasonable notice. (Ord. 3, §1(part), 1990)

5.28.030 Direct dial systems. No person may install a direct dial police alarm system coded to any telephone number without the permission of the person to whose telephone it is coded. (Ord. 2, §1(part), 1990)

5.28.040 Audible alarm requirements. Any person maintaining an audible alarm as part of a building police alarm system shall post a notice stating the names and telephone numbers of the persons to be notified to render repair or service and to secure the premises if any alarm is activated. Such notice shall be posted near the alarm in a position legible from the ground outside the building where the alarm system is located. (Ord. 2, §1(part), 1990)

5.28.050 False alarms.

A. It shall be unlawful to maintain a defective police alarm system.

B. A police alarm system shall be deemed to be defective if it causes alarms responded to by the City's police department, which were not caused by criminal activity, in excess of the following:

1. One false alarm in any thirty (30) day period; or

2. Two false alarms in any ninety (90) day period; or

3. Three false alarms in any one hundred eighty (180) day period; or

4. Four false alarms in any three hundred sixty five (365) day period.

C. A defective alarm system is hereby declared to be a nuisance which may be abated by the City in any lawful manner.

D. Any person owning or using a defective alarm system shall be liable to pay the City fifteen dollars ($15.00) for each false alarm to which the City police department responds over the above limits. The City may enforce collection of such amounts in any lawful manner and may certify such amounts as a delinquent charge to the County Treasurer to be collected similarly as delinquent taxes against the property upon which such system is located. It shall be unlawful to fail to pay such amounts within thirty (30) days after billing by the City. (Ord. 2, §1(part), 1990)

Title 6

ANIMALS

Chapters:

Chapter 6.04

ANIMAL CONTROL REGULATIONS

Sections:

6.04.010 General provisions.

A. This Chapter shall be applicable to all property within the City, and to City owned park property located outside of the City limits.

B. For purposes of this Chapter, "custodian" shall mean any person possessing, harboring, keeping or exercising control over any animal.

C. The City Manager may issue such regulations as may be necessary for the enforcement, administration and interpretation of this Chapter, and any amendment thereto.

D. For purposes of this Chapter, "City" shall mean the City of Delta, Colorado, and any agent or employee thereof authorized by the City Manager to administer or enforce the provisions of this Chapter.

E. For the purposes of this Chapter, "animal" shall mean any mammal, bird or reptile. (Ord. 6 §1, 1996)

6.04.020 Rabies control.

A. Vaccinations: It shall be unlawful to own or have custody of any dog six (6) months of age or cat six (6) months of age or older, unless such dog or cat has been vaccinated against rabies with an approved vaccine by a licensed veterinarian and such vaccination is currently effective. No rabies vaccination is required for a dog or cat temporarily within the City for less than thirty (30) days if said dog or cat is currently licensed by another governmental licensing authority or such dog or cat has a current rabies vaccination.

B. The rabies vaccination and tag required by this Section must be obtained within five (5) days of the acquisition of any dog over six (6) or cat over six (6) months old.

C. Certificate of Vaccination: The veterinarian administering the vaccine shall execute and furnish to the owner or custodian of the animal a certificate of vaccination, keeping a duplicate copy for his files. Forms for such certificates shall be provided by the City and require information appropriate for the administration and enforcement of this Chapter, including the description of the animal.

D. Certificates of vaccination issued shall be good for twelve (12) months and must be reissued annually.

E. Proof of Vaccination: It shall be unlawful for any person who owns or has custody of any dog or cat to fail or refuse to produce the certificate of vaccination upon request by any person charged with the enforcement of this Chapter.

F. All dogs shall have a collar or harness to which the required rabies tag shall be attached.

G. It shall be unlawful for any person to make use of, or have in his possession or under his control, a stolen, counterfeit or forged rabies tag or rabies vaccination certificate.

H. Vaccination certificates and tags are not transferable and it shall be unlawful for any person to attach any rabies tag to any animal other than the animal for which such tag was originally issued.

I. It is unlawful to make any fraudulent statement or misrepresentation with respect to any rabies vaccination application. (Ord. 6 §1, 1996)

6.04.030 License required.

A. All dogs and cats kept within the City which are required to have a rabies vaccination pursuant to subsection 6.04.020(A) shall be licensed.

B. Applications for licenses shall be submitted on forms provided by the City, and must be accompanied by proof of current rabies vaccination and a $5.00 license fee.

C. Licenses issued by the City shall be valid for the life of the animal.

D. License tags shall be attached to a collar or harness of the dog. Lost tags may be replaced for a fee of $5.00.

E. It shall be unlawful for any person to make use of, or have in his possession or under his control, a stolen, counterfeit or forged license tag.

F. License tags are not transferable and it shall be unlawful for any person to attach any license tag to any animal other than the animal for which such tag was originally issued.

G. It is unlawful to make any fraudulent statement or misrepresentation with respect to any license application. (Ord. 6 §1, 1996)

6.04.040 Animal attacks.

A. Anyone, including physicians, having knowledge of any case of an attack or bite caused by any dog, cat or other animal occurring within the Delta City limits shall notify the City as soon as possible.

B. Any dog, cat or other animal which is known to have bitten or injured any person, causing an abrasion or cut of the skin shall be quarantined for a period of not less than ten (10) days from the date of the incident. It is unlawful for any person to refuse to produce such an animal for quarantine.

C. The animal shall be quarantined and observed at either the owner or custodian's premises or at any veterinarian clinic or hospital of the owner or custodian's choice, whichever the City determines is necessary for proper observation. Such confinement shall be at the expense of the owner or custodian. Stray animals whose owners cannot be located may be confined at any veterinary clinic or hospital.

D. The owner or custodian of the dog, cat or other animal shall be liable for the costs of confinement and the animal shall not be returned until such costs are paid. The animal may be sold or destroyed if such costs are not paid by the owners or custodian and the City may recover such costs in any lawful manner.

E. Any animal infected with rabies shall be destroyed. (Ord. 6 §1, 1996)

6.04.050 Limit on dogs and cats.

A. It shall be unlawful to keep, maintain, harbor or possess upon the premises of any one household or other premises, other than a veterinary hospital, more than four (4) dogs and cats over the age of three (3) months, in the aggregate in any combination. Provided, however, animals in excess of this limit lawfully kept upon a premises at the time of annexation to the City may continue to be kept if all animals on the premises are licensed with the City within 30 days of annexation. Such excess animals cannot be replaced upon death or other disposition. Provided further, however, within the A-1 Zoning District, and on lawful, but nonconforming farms and ranches, at least 10 acres in size, it is lawful to keep additional working dogs which are used in conjunction with farming and ranching activities such as herding and guarding livestock.

B. Dog kennels, breeding kennels, veterinary hospitals, boarding kennels, catteries or any similar such facilities, which keep more animals than allowed in Subsection A above are prohibited within the City except if any required State license is in effect, and the facility is lawfully located pursuant to City zoning regulations. (Ord. 6 §1, 1996; Ord. 31, §9, 2000; Ord. 2, §1, 2002; Ord. 9, §1, 2004)

6.04.060 Revocation or suspension of license or tags. The City Council may revoke or suspend any license or tags issued in accordance with the provisions of this Chapter upon a finding that the licensee has violated any provision of this Chapter. A hearing shall be held and reasonable notice given of the hearing to the licensee or custodian. (Ord. 6 §1, 1996)

6.04.070 Running at large prohibited.

A. It shall be unlawful for any owner or custodian of any animal to fail to have the animal under effective and immediate control of the owner or custodian by a leash, cord, chain or other restraining device at all times that such animal is within the City, unless the animal is upon the premises of said owner or custodian.

B. Any animal in violation of subsection (A) above may be impounded or caused to be impounded by the City. It shall be unlawful for the owner of an impounded animal to fail to reclaim it and pay all applicable charges.

C. A list of all impounded animals shall be posted in the City Clerk's office.

D. The owner or a custodian of any animal so impounded may reclaim it within three (3) working days from the date the notice is posted with the City Clerk upon payment of an impounding fee plus a daily fee for care and feeding per day impounded, which fee shall be set by City Council, plus any veterinary charges. No unlicensed dog or cat will be released to the owner or custodian without his obtaining a license if one is required by this Chapter and obtaining any required rabies vaccinations.

E. The City shall keep all animals so impounded for a period of three (3) working days from the date the notice is posted unless sooner reclaimed by the owner. If at the expiration of said period, the owner or custodian has not reclaimed the animal, it may be destroyed or disposed of by sale. Any purchaser shall pay all charges imposed by this Chapter. No unclaimed dog or cat shall be adopted without being vaccinated for rabies and licensed, if required. (Ord. 6 §1, 1996)

6.04.080 Releasing restrained animals prohibited.

A. It shall be unlawful for any person to release any animal impounded or quarantined pursuant to this Chapter without permission of the City.

B. It shall be unlawful for any person to set any animal free of any restraint or confinement without consent of the owner or custodian. (Ord. 6 §1, 1996)

6.04.090 Vicious animals.

A. It shall be unlawful for the owner or custodian of any vicious animal to fail to confine it within a building or secure enclosure or to fail to have it securely muzzled or caged and on a leash or other restraining device, capable of providing effective and positive restraint and control of the animal, whenever off the premises of the owner or custodian.

B. A vicious animal is any animal that the owner or custodian knows or reasonably should have known has inflicted an unprovoked bite or attack upon any person or any other animal, which is trained to attack persons or animals, or which is known to have dangerous propensities, such as wolves or wolf-hybrids.

C. The owner or custodian of a vicious animal shall post a warning of the presence of such animal at the entrances to the building or enclosure in which the animal is kept. (Ord. 6 §1, 1996)

6.04.100 Cruelty to animals.

A. It shall be unlawful for any person owning or having custody of any animal to fail to provide any animal with adequate food, water, shelter and veterinary care when reasonably required.

B. It shall be unlawful for any person to beat, cruelly ill-treat, poison, overload, overwork or otherwise abuse any animal, or cause or permit any dog fight, cockfight, bullfight or other combat between animals or between animals and humans, or destroy any animal belonging to another.

C. It shall be unlawful for the owner or custodian of any animal to abandon such animal. (Ord. 6 §1, 1996)

6.04.110 Nuisance.

A. Any animal which produces or creates any unreasonable disturbance by excessive or continuing screeching, barking or other noise, or which on more than one occasion, chases

vehicles, attacks other animals, damages property, is at large without control, or is otherwise in violation of the provisions of this Chapter, is hereby declared to be a nuisance.

B. It is unlawful for the owner or custodian of any animal to allow it to become a nuisance, or to create a nuisance.

C. The City may abate any such nuisance by an action in a court of proper jurisdiction or otherwise in accordance with law. (Ord. 6 §1, 1996)

6.04.120 Female animals in heat. Any female dog or cat in heat shall be confined in a building or secure enclosure adequate to prevent indiscriminate contact with any male dogs or cats. (Ord. 6 §1, 1996)

6.04.130 Police dogs.

A. Police dogs, while on duty, or under authorized training with or for the Delta Police Department or any other law enforcement agencies shall not be subject to the provisions of Sections 6.04.040, 6.04.070, 6.04.090, 6.04.110 or 6.04.120.

B. It shall be unlawful for any person to hit, kick, strike, beat, injure, disable or kill any police dog on duty or under training, or to tease or torment any police dog in a manner likely to provoke a violent response or to interfere with the use of such police dog which such dog is being used by the Delta Police Department or other law enforcement agency for law enforcement duties or while under training. (Ord. 6 §1, 1996)

6.04.140 Pen requirements. No pen, kennel, dog run or similar structure shall be located within 15 feet of any property lines except lawful kennels, pens or runs existing as of February 1, 1996 or annexed subsequent thereto. All pens, kennels, dog runs and similar structures shall comply with the maintenance standards of Section 6.12.030. (Ord. 6 §1, 1996)

6.04.150 Enforcement.

A. It shall be unlawful to violate any provision of this Chapter.

B. Continuing violations of this Chapter are declared to be a nuisance.

C. The City may cause the destruction of any animal when it is injured or diseased, or when reasonably required to

protect persons, property or other animals, or when an animal cannot be safely impounded. The Municipal Judge may, as a condition of any plea bargain or sentence, order the destruction of any animal which has attacked any person, or any animal when necessary to protect the public peace, health, safety, or welfare.

D. The Municipal Judge may, as a condition of any sentence or plea bargain, enter orders as appropriate to abate any nuisance and require restitution. (Ord. 6 §1, 1996)

6.04.160 Pet store regulations.

A. No business or activity shall be established or conducted on property within the City limits which engages in the acquisition or raising of any type of animals for resale as domestic or household pets (whether known or referred to as a "pet store" or by any other name under which the essential functions of a pet sale business are conducted) except in compliance with the provisions of this Section 6.04.160.

B. No pet store or other pet sale business shall be opened or operated within the City except upon property located in a zoning district in which retail sales are permitted as a use by right or conditional use.

C. Animals kept by the owner of any pet store business shall, at all times, be kept or displayed only in pens or cages that 1) substantially conform as to size and materials with customs of the pet store industry for each respective animal species and that 2) are located exclusively within enclosed areas of the principal business building lawfully constructed on property within a permitted zoning district. No such animals may be temporarily or permanently kept in any type of garage, outbuilding, kennel, hutch, pen, cage or other structure located outside of or apart from the principal business building, whether or not such structure is enclosed or ancillary to the use of the principal building.

D. No animals of any kind or description that are commonly known to be wild or undomesticated shall be deemed authorized under this Section 6.04.160 for keeping or sale by any person or business within the City limits.

E. All provisions of Chapters 6.04, 6.12, and 8.24 of the Delta Municipal Code, pertaining to the general imposition and enforcement of animal controls and the general prohibition and abatement of nuisances, shall remain fully applicable to owners

of any pet store business that may be otherwise properly located in the City, with the exception of the individual pet license requirements and the maximum animal limits set forth in Sections 16.04.030, 6.04.050, and 6.12.020(A)(4) of said Code. (Ord. 3 §1, 2006)

6.04.170 Feral Cat Colony Management

A. The following definitions shall apply to this Section:

1. Feral Cat means any undomesticated variety of cat at for which no one claims ownership or rights of possession and which roams freely in a wild state in and about the Delta city limits.
2. Feral Cat Colony means any two or more feral cats which gather regularly at a food source.
3. Feral Cat Caretaker means any person who complies with the registration requirements of this Section and is otherwise dedicated to limiting interactions between feral cats and humans, and to controlling the growth of feral cat colonies through a humane process of feeding, trapping, neutering, vaccinating and returning the individual members of such a colony.
4. Managed Feral Cat Colony means a feral cat colony having one or more caretakers who maintain its health, sterility and separation from human populations.
5. Ear Tipping. The process of removing the top portion of a feral cats ear so as to identify and distinguish it as having been properly sterilized and vaccinated.

B. Any person who desires to be recognized as bona fide a feral cat caretaker shall register as such with the animal control division of the Delta Police Department and, upon so doing, shall be exempt from the animal control regulations of Chapter 6.04 of the Delta Municipal Code with regard to any feral cats and colonies that are being managed by such caretaker. After completing registration, each caretaker shall submit semi-annual written reports to Delta's animal control division which describe the approximate size, location and general description of each feral cat colony being managed and which recite date-specific events of sterilization, vaccination and control of each feral cat being managed. All feral cats that have been sterilized and vaccinated shall be so identified by its caretaker through the process of ear tipping.

C. The purpose of this Section is to enable a practical

alternative to indiscriminate destruction of free-roaming feral cats. It is nevertheless provided that nothing in this Section shall preclude or limit the destruction of any such cat that has become a public nuisance in the discretion of the animal control officer of the Delta Police Department or that has been ordered destroyed by the Delta Municipal Court. (Ord. 4, §1, 2009)

Chapter 6.12

LIVESTOCK AND POULTRY

Sections:

6.12.010 Keeping of livestock.

A. Livestock may be kept within the City only in the following circumstances:

1. In a zoning or use district which allows it as a permitted use, an approved conditional use, or an approved use subject to review.

2. At locations where allowed by the nonconforming use regulations of the City's zoning regulations/land use code.

3. At locations throughout the City where a minimum of one acre, clear of structures, is provided per animal on the premises.

4. In the I-1 Industrial District when kept in conjunction with the operation of a lawful livestock sales yard, packing plant or stockyard.

B. As used in this Chapter, the term "livestock" shall include but not be limited to horses, cattle, mules, donkeys, burros, llamas, alpacas, swine, goats, sheep and other such animals. (Ord. 21, §1, 1994; Ord. 17, §1(3-19), 1983)

6.12.020 Keeping of poultry, rabbits and other animals.

A. Poultry, rabbits, mink, chinchilla, and similar animals may be kept within the City only in the following circumstances:

1. In a zoning or use district which allows it as a permitted use, an approved conditional use, or an approved use subject to review.

2. At locations where allowed by the nonconforming use regulations of the City's zoning regulations/land use code.

3. No more than 12 chickens may be kept on any single premises at locations throughout the City if kept confined within a cage, pen or building located no closer than 15 feet from abutting property.

4. No more than two birds (other than peacocks or chickens) and no more than two rabbits, mink, chinchilla or

similar animals, may be kept on any single premises if confined to a cage, pen or building located no closer than 15 feet from abutting property. Peacocks are not allowed under this Subsection.

5. Racing pigeons may be kept pursuant to a permit issued pursuant to Section 6.12.040. (Ord. 21, §1, 1994; Ord. 17, §1(3-20), 1983)

6.12.030 Maintenance standards.

A. All premises, pens, cages or structures where livestock, poultry or other animals are kept shall be kept in a clean, dry and sanitary condition.

B. All premises, pens, cages or structures where livestock, poultry, or other animals are kept shall be maintained so that the reasonable use of adjacent property is not adversely affected because of unreasonable odors, noise, insects or other nuisance created as a result of the animals. (Ord. 21, §1, 1994; Ord. 17, §(3-21), 1983)

6.12.040 Racing pigeons.

A. "Racing pigeon" means a pigeon which through selective past breeding has developed the distinctive ability to return to its home after release a substantial distance away, and which is accepted as such by national racing pigeon organizations.

B. The keeping, breeding, maintenance and flying of racing pigeons shall be permitted only on the following conditions:

1. The loft shall be of such sufficient size and design, and constructed of such material, that it can be maintained in a clean and sanitary condition.

2. There shall be at least one square foot of floor space in any loft for each mature pigeon kept therein.

3. The construction and location of the loft shall not conflict with the requirements of any City Building and land Use Regulations.

4. All feed for said pigeons shall be stored in such containers as to protect against intrusion by rodents and other vermin.

5. The loft shall be maintained in a sanitary condition and in compliance with all applicable health regulations.

6. All pigeons shall be confined to the loft, except for exercise, training and competition; and at no time shall pigeons be allowed to perch or linger on the buildings or property of others.

7. All pigeons shall be fed within the confines of the loft.

8. No one shall release pigeons to fly for exercise, training or competition except in compliance with the following rules:

a. The owner of the pigeons must be a member in good standing of an organized pigeon club, such as the American Racing Pigeon Union, Inc., the International Federation of Racing Pigeon Fanciers, the National Pigeon Association, the American Tippler Society, the International Roller Association, the Rare Breeds Pigeon Club, or a local club which has rules that will help preserve the peace and tranquility of the neighborhood.

b. Pigeons which have been fed within the previous four hours will not be released for flying.

9. No loft may be located closer than 25 feet from the residence of another.

10. A permit has been issued by the City Manager.

C. 1. Application for a Pigeon Permit shall be submitted on forms provided by the City accompanied by a fee of $25.00.

2. The City Manager may issue a permit upon a determination that the applicable conditions will be met.

3. The permit may be revoked upon failure to comply with all applicable conditions following reasonable notice and hearing. (Ord. 21, §1, 1994; Ord. 17, §1(3-23), 1983)

6.12.050 Enforcement.

A. It shall be unlawful to violate the provisions of this Chapter.

B. Violations of this Chapter are hereby declared to be a nuisance which may be abated in accordance with law. (Ord. 21, §1, 1994; Ord. 17, §1(3-23), 1983)

Title 8

HEALTH AND SAFETY

Chapters:

Chapter 8.04

NOISE REGULATIONS

Sections:

8.04.010 Unreasonable noise.

A. It is unlawful for any person to make, continue, or cause or permit to be made or continued any unreasonably excessive or unnecessary or unusually loud noise or any noise which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others.

B. It is unlawful to use truck “jake brakes” within the City.

C. Unreasonable noise is hereby declared to be a nuisance which may be abated pursuant to law. (Ord. 8 §1, 1998)

8.04.020 Prima facie unreasonable noise. The following circumstances shall be prima facie evidence that the sound in question is “unreasonable noise” for the purposes of Subsection 8.04.010(A).

A. The operation or use of any musical instrument, radio, tape player, CD player, phonograph, or similar device between the hours of eleven p.m. and seven a.m. in such a manner as to be plainly audible at a distance of fifty feet from the building, structure or vehicle in which it is located. (In business and industrial use districts, said distance shall be one hundred fifty feet.)

B. Unmuffled or improperly muffled engine exhaust noise.

C. Sound broadcast from speakers or similar equipment from a motor vehicle or premises which is audible within vehicles on the street with windows closed or within buildings or other premises with the windows closed. (Ord. 8 §1, 1998)

Chapter 8.08

BURNING RESTRICTIONS

Sections:

8.08.010 Definitions. The definitions of words and phrases used in this Chapter which pertain to the concept of "open burning" shall reasonably conform with any which may be provided in C.R.S. 25-7-103 and in Colorado Air Quality Control Commission Regulation No. 9.

8.08.020 Open Burning of Materials Generally Prohibited. It shall be unlawful to conduct any form of outdoor or open burning activity anywhere in the City of Delta except as specifically allowed by Section 8.08.030. This general prohibition shall apply whether or not burning is conducted within a receptacle or facility designed for the containment of outdoor fires. It is specifically intended to prohibit the burning of all forms of trash, garbage, refuse and other waste materials including without limitation, all forms of vegetation such as leaves, tree limbs, grass, shrub and garden trimmings, and all forms of manufactured products and materials except food materials being used for, and in the process of, cooking meals for human consumption in the manner specifically allowed under Section 8.08.030A.

8.08.030. Burning Activities Allowed Subject to Restrictions. Notwithstanding any express or implied provision of Section 8.08.020 to the contrary, the following outdoor or open burning activities shall be deemed lawful subject to all specified restrictions and conditions:

A. The outdoor cooking of food in grills, barbeque pits and other containment devices specifically designed for cooking activity, and the use of matches, torches, welding and ignition devices, tobacco products, flares, fireworks, explosives and other products and devices commonly used for domestic, commercial, training and industrial purposes, provided that the pertinent activity otherwise complies with all applicable State laws and regulations."

B. Open burning on real property of surface brush, weeds and other cover vegetation for purposes of routine ditch and field maintenance and general agricultural purposes on the following conditions:

1. The areas to be burned either consist of an easement area owned and controlled by an incorporated or unincorporated ditch association, or are otherwise located entirely within one or more contiguous lots or parcels of land titled in the name(s) of the same owner(s) and containing one half acre or more in the aggregate.

2. The desired removal of brush, weeds and other cover vegetation cannot be as practically or economically accomplished by means other than burning.

3. Any burning activity is continuously attended by an owner of the easement or property on which the surface burning is to occur, or some properly delegated officer or agent of such owner, who has the ability to control and extinguish the fire through immediately available water sources and other fire suppression tools that are adequate to prevent spread of the fire to man-made improvements and/or to other areas of adjoining land.

4. The owner of the pertinent easement or property observes all applicable provisions, conditions and/or limitations of Department of Public Health and Environment Colorado Air Quality Control Commission Regulation 9 entitled "Open Burning Prescribed Fire and Permitting", 5 CCR 1001-11, as amended, and has also first complied with applicable provisions of Delta County Burn Regulations (Ordinance No. 2007-02, as amended) by providing notice of an intent to conduct open burning through the "Burn Hotline" at 399-2955 or any successor phone number maintained for burning notification purposes by Delta County.

(Prior Code §9-11; Ord. 8, 1987; Ord. 16, §1, 2012)

Chapter 8.12

GARBAGE COLLECTION AND DISPOSAL

Sections:

8.12.010 Applicability. The provisions of this Chapter shall apply to all territory within the corporate limits of the City. (Prior Code §10-1)

8.12.030 Trash collection requirements.

A. Private persons and companies shall be allowed to collect refuse, garbage and waste within the City at such rates as they may contract with individual consumers.

B. Industrial or commercial establishments or multi-family residences or eight or more units, and other residences which were annexed after April 19, 1994, shall not be liable for payment or user charges for City waste services as long as such users are being served by another refuse collection service operating within the City instead of City service. It shall be the responsibility of persons using other trash collection services to terminate City trash collection services and charges by notifying the City on forms to be provided by the City.

C. Nothing in this Code shall prohibit the provision of waste services by persons other than the City to industrial users, commercial users, multi-family residences of eight or more units, and residences annexed after April 19, 1994.

D. Residences shall be charged for collection service, whether or not they use City collection services, except those qualified family residences of eight or more units, and those residences annexed after April 19, 1994, which notify the City and have adequate alternative weekly trash service. (Ord. 9, §1, 1983; Ord. 17, §1, 1997)

8.12.050 Trash containers.

A. The City shall collect trash only from those trash containers meeting City specifications compatible with City collection equipment.

B. The City shall determine which residential customers shall be required to use individual containers and which shall use shared containers.

C. The City shall provide ninety (90) gallon containers to each residential customer required to use individual containers at the time the dwelling unit is first served. Thereafter, the customer shall be responsible to maintain it in good condition. Provided, however, the City may perform minor repairs to the containers as appropriate in the City's discretion. Replacement of any container shall be at the customer's expense. Such container shall be owned by the City and not removed from the property served.

D. The City will supply a nonresidential customer with the necessary containers at the time the customer is first served. Such customer shall maintain all containers in good condition. Provided, however, the City may make minor repairs to such containers as appropriate in its discretion. Upon termination of service, any City supplied container or its replacement shall be returned to the City in good condition or the customer will be charged for the cost of repair or replacement. Such container is owned by the City and shall not be removed from the property served.

E. The City shall maintain a supply of containers for sale to customers who need to replace containers.

F. Each customer must have a sufficient number of complying containers adequate to accommodate the amount of trash normally generated by the customer.

G. Containers which are overfilled, overweight in violation of this Chapter, or dangerous need not be serviced by the City.

H. Containers of City customers shall be appropriately identified.

I. Containers shall be placed at the edge of the alley easily accessible to City collection equipment, unless a customer does not abut an alley.

J. Customers without an alley shall place their containers adjacent to an abutting street. Containers shall be removed from any street by the customer following collection on the same day the trash is collected by 8:00 p.m. Containers shall be set out on the street for collection no sooner than the morning prior to collection.

K. Containers may be placed in other locations accessible to City trucks for collection only if approved by the City. (Ord. 17, §1, 1997; Ord. 3, §1, 1983; Ord. 17, §1, 1976; prior Code §10-5)

8.12.090 Unlawful acts.

A. It is unlawful for any person to molest, remove, handle or otherwise disturb the trash containers or contents thereof of another without permission of the other person.

B. It is unlawful for any person to utilize City trash collection services without paying the charges imposed by this Chapter.

C. It is unlawful for any person to place trash for collection with or in cans or containers belonging to a City customer unless such person is paying the charges imposed by this Chapter and has the other's permission.

D. It is unlawful for any person not a City customer to mark or possess a container or can with the standard City identifying mark. (Prior Code §10-9; Ord. 12, §1, 1993)

8.12.100 Rates and charges.

A. The owner, tenant and occupant of premises to which trash collection service is provided by the City or charges due there from shall be jointly and severally liable for the following monthly charges:

	Type Use	Monthly Charge
1.	Customers using 90 gallon containers	$10.50/container x number of pickups per week
2.	Customers using 300 gallon containers	$25.00/container x number of pickups per week

3.	All others using large shared containers	$10.50/unit
4.	Customers using containers over 300 gallons	$.085 /gal.
5.	Extra Pickup Customers using 90 gallon containers	$15.75/unit
6.	Extra Pickup Customers using 300 gallon containers	$37.50/unit
7.	Extra Pickup Customers using Containers over 300 gallons	$.1275/gal.

B. The City shall determine the size and number of required containers and authorized pick-ups each week for all customers. (Ord. 3, §2, 1983; Ord. 11, §1, 1990; Ord. 12, §1, 1992; Ord. 11, §1, 1993; Ord. 37, §1, 1995; Ord. 17, §1, 1997; Ord. 47, §1, 2000; Ord. 8, §1, 2006; Ord. §12, 2008)

8.12.120 Violations and enforcement.

A. Continuing violations of this Chapter are hereby declared to be a nuisance which may be abated in any lawful manner.

B. The City may maintain an action to enjoin any violation of this Chapter or enforce compliance with provisions of this Chapter.

C. It shall be unlawful to violate any provision of this Chapter.

D. The City may refuse to pick up any trash under circumstances in violation of this Chapter. (Ord. 17, §3, 1976; Ord. 17, §1, 1997)

8.12.130 Collection service charges--General provisions.

A. Charges for collection service shall be payable, assessed and billed at periodic intervals specified by the City.

B. Monthly collection service charges shall commence when service is first utilized, or pursuant to Subsection 8.12.030(D).

C. Collection service charges may be billed with the water bills or otherwise, as determined by the City.

D. All bills shall specify a due date. Bills not paid by the due date shall be subject to a $5.00 late payment penalty.

E. All charges and fees imposed by this Chapter shall become a lien on the property served as of the date they are billed or due. (Ord. 17, §4, 1976; Ord. 17, §1, 1997; Ord. 5, §1, 2001)

8.12.140 Remedies for nonpayment.

A. In addition to any other remedies which the City may have, the City may take the following action upon failure to pay any charges or fees by the date specified as due upon the bill, or when they are otherwise due:

1. The City may foreclose the lien imposed by this Chapter in accordance with law.

2. The City may maintain an action for the amount of charges due in a court of competent jurisdiction including interest as allowed by law.

3. The City may certify the amount of any charge due to the County Treasurer as a delinquent charge upon such property served to be collected similarly as taxes are collected.

4. The City may discontinue trash collection service to any premises for which the bill is not paid in accordance with the procedures set forth in Section 13.04.140 of this Code. Charges shall continue to accrue, however.

B. It shall be unlawful to fail to pay the charges imposed in this Chapter. (Prior Code §10-13; Ord. 17, §1, 1997)

8.12.150 Special collection limitations.

A. No extremely flammable, toxic, explosive or hazardous materials, no large or heavy metal objects, no objects which could damage collection equipment or trucks, no materials contaminated with contagious diseases, and no dead animals shall be placed in any containers for collection. Special arrangements must be made with the City for collection of such items or collection of other large or unusual loads. The City

may refuse to collect such items or may charge an additional fee.

B. Damage to City property or extraordinary expense to the City caused by violations of this Chapter may be collected from the customer as an additional collection charge or in any other lawful manner.

C. The City may in its discretion collect dead animals, yard waste and tree trimmings, items too large or heavy for the containers, or otherwise not allowed to be placed in containers at such fees as the City may determine. (Ord. 17, §1, 1997)

Chapter 8.16

LITTER AND JUNK

Sections:

8.16.010 Littering.

A. It shall be unlawful for any person to deposit, throw, or leave any litter or junk on any public or private property or in any waters.

B. It shall be an affirmative defense that:

1. The litter or junk is placed in a receptacle or container installed on such property for such purpose which such person is authorized to use; or

2. Such person is the owner or tenant in lawful possession of such property, or he has first obtained written consent of the owner or tenant in lawful possession, or the act is done under the personal direction of said owner or tenant.

C. Whenever litter or junk is thrown, deposited, dropped or dumped from any motor vehicle in violation of this Section, the operator of said motor vehicle is presumed to have caused or permitted the litter or junk to be so thrown, deposited, dropped or dumped therefrom. (Ord. 4, §2(part), 1986)

8.16.020 Storage of litter.

A. It shall be unlawful for any person to keep, store, or deposit or allow to be kept, stored or deposited any litter upon his own property or upon property of which he is a tenant in lawful possession, except within a trash can or container which has a tight-fitting lid, or a trash bag, or unless the litter is totally enclosed within a building.

B. The keeping, storage or deposit of litter in violation of this Section is hereby declared to be a nuisance and may be abated in accordance with law. (Ord. 4, §2(part), 1986)

8.16.030 Keeping of junk.

A. It shall be unlawful for any person to keep, store, or deposit or allow to be kept, stored or deposited junk upon his own property or upon property of which he is a tenant in lawful possession, unless the junk is totally enclosed within a building or is screened by a fence or other enclosure from view

off such person's property or is kept within a receptacle for such purpose with a tight-fitting lid.

B. The keeping, storage or deposit of junk in violation of this Section is hereby declared to be a nuisance and may be abated in accordance with law.

C. It shall be an affirmative defense that the used building materials or firewood are stored or stacked in a reasonably neat and orderly manner. (Ord. 4, §2(part), 1986)

8.16.040 Definitions.

A. For the purpose of this Chapter, "litter" shall mean all rubbish, waste material, refuse, garbage, trash, debris or other foreign substances, solid or liquid of every form, size, kind and description.

B. For the purpose of this Chapter, "junk" shall included by not be limited to discarded, unusable or broken machinery, appliances, furniture, furnishings, or sporting equipment; used building or construction materials; inoperable motor vehicles; vehicles without current license plates or State safety inspection stickers, if they are required by the State; or vehicles which do not comply with safety equipment requirements of State law; and all other items commonly known as junk.

C. An item may be both "junk" and "litter" as defined in this Chapter. (Ord. 4, §2(part), 1986)

Chapter 8.20

WEEDS

Sections:

8.20.010 Weed control.

A. It shall be unlawful for the owner, lessee or occupant of any property to fail to control weeds on said property and upon that portion of abutting street and alley rights-of-way lying between said property and the centerline of said rights-of-way in accordance with the requirements of this Section.

B. All weeds shall be removed or kept mowed or clipped reasonably close to the ground but in no case shall they be allowed to be higher than 6". Clippings must be promptly removed from the premises and disposed of properly.

C. The following circumstances shall be an affirmative defense to the requirements for weed control set out in this Section:

1. The plants are maintained in accordance with good agricultural practices, the property is used for grazing or other bona fide agricultural use, and the property is located in an A-1 District or appurtenant to a legal non-conforming agricultural use; or

2. The plants are located in parks, wildlife refuges, water fowl sites or open natural areas operated by governmental agencies; or

3. The plants are cultivated ornamental shrubs, bushes, flowers or edible vegetables; or

4. The plants are part of a reasonably maintained xeriscaped or landscaped area. (Ord. 4 §2(part), 1986; Ord. 15 §1(part), 1993)

8.20.020 Nuisance declared.

A. Weeds or plants in violation of the requirements of Section 8.20.010 are hereby declared to be a nuisance and the City may abate them in any lawful manner including the procedures specified in Chapter 8.24 of this Code, or in this Section.

B. The City may enter upon property maintained in violation of this Chapter and remove weeds and vegetation as appropriate to abate any nuisance. Prior to such entry, the City shall give reasonable notice to the owner of record and any

apparent tenant or occupant of the property. The City's costs in so doing may be recovered as provided in Section 8.24.030. (Ord. 15 §1(part), 1993)

8.20.030 Conflicting statutes superseded. Any statute or regulation of the State of Colorado in conflict with the requirements of this Chapter or the procedures of Chapter 8.24 are hereby declared to be superseded by the ordinances of the City of Delta. (Ord. 15 §1(part), 1993)

Chapter 8.24

NUISANCES

Sections:

8.24.010 Nuisances prohibited.

A. It shall be unlawful for any person to create, cause, or maintain any nuisance, or to permit any nuisance to exist upon or in connection with any premises owned by him or under his control.

B. The following are hereby declared to be a nuisance:

1. Any thing or activity which unreasonably annoys or interferes with the use or enjoyment of public or private property or which constitutes a health or safety hazard.

2. Anything declared to be a nuisance by any City ordinance or by the statutes or regulations of the State.

3. Any other thing or activity which under law constitutes a nuisance.

4. Any excavation exceeding 5 feet in depth, and cisterns, wells, or any excavation used for storage of water which is not adequately covered with a locked lid or other covering weighing at least 60 pounds, or is not securely fenced with a solid fence to the height of at least 5 feet.

5. Any unoccupied building, house or other structure which is in such a state of disrepair that it may collapse at any time or poses a safety hazard to persons upon the premises.

6. Manure stored for any purpose other than immediate use as fertilizer.

7. Any unused refrigerator, washer, dryer, freezer, or other appliance accessible to children outside a residence which does not have the door removed.

8. The Placement of graffiti upon any public or private property within the territorial limits of the City of Delta; and the failure of a registered owner of property, or the responsible agent of such owner, to remove graffiti from affected property within three (3) days after delivery of notice to remove the same has been provided to the owner or agent by the City Manager, a City Code enforcement officer, or a City police officer. The term “graffiti” is defined to mean the product of intentional painting, scratching or coloring (with any contrast medium whatsoever) of any public or private

property except by permission of the owner of such property, including the City Manager in the case of City property or the supervisory officer of any other public property.

C. Any use or the manner of use of any property which is declared a nuisance by this Section shall be a nuisance subject to abatement under this Chapter notwithstanding the fact that such a use might otherwise be allowed under the City's zoning, land use, building or other regulations. (Ord. 4, §2(part), 1986; Ord. §7, 2008)

8.24.020 Abatement of nuisances.

A. In addition to any other powers granted to the City by law to abate nuisances, any nuisance may be abated in accordance with the provisions of this Section.

B. The City may maintain an action in a court of competent jurisdiction to enjoin or abate a nuisance.

C. The City may prosecute any person maintaining or allowing a nuisance to exist in Municipal Court, and upon conviction, the Court may enter an order on such items as it deems appropriate for the abatement of the nuisance in addition to any fine or jail sentence. (Ord. 4, §2(part), 1986)

D. The City may give notice in writing to any person responsible for the maintenance of a nuisance, which notice shall allow a reasonable time for such person to correct or eliminate the nuisance. If such person shall fail to correct or eliminate the nuisance by the time specified in the notice, the City may take action for the correction or elimination of the nuisance and shall have the right to enter upon private property for such purpose. The City may collect the cost of doing so in accordance with Section 8.24.030. Prior to entering upon private property, the City shall request the permission of the owner or party in possession of the premises if their address is known to the City. If such permission is not granted or such persons are not located, the Municipal Court may issue an order authorizing entry and abatement of the nuisance upon a showing of probable cause and compliance with the notice requirements or this subsection.

E. The City may take all necessary steps, including the entry upon private property, to abate or eliminate a nuisance without notice when such nuisance constitutes an immediate health or safety hazard. In such event, the costs incurred by the City may be collected in accordance with Section 8.24.030. Prior to entry, the City shall obtain an order from the Municipal Court authorizing entry, which order the Court may issue on a showing of probable cause. (Ord. 4, §2(part), 1986; Ord. 3, §7, 1987)

8.24.030 Cost of abatement.

A. The City may recover all costs, including attorney's fees plus interest and penalties allowed by law it incurs in abating any nuisance as provided in this Section.

B. The City may maintain an action in a court of competent jurisdiction for costs incurred in abating a nuisance.

C. The cost incurred shall be an assessment and lien upon the property affected which may be foreclosed by the City in accordance with law which shall have priority over all other liens except general taxes and prior special assessments.

D. The costs incurred by the City may be certified to the County Treasurer to be collected as delinquent charges together with interest and penalties authorized by law in a manner similar to property taxes against the property on which the nuisance was maintained.

E. Costs which the City may recover include, but are not limited to, all out-of-pocket costs and expenses, costs attributable to City employee time and equipment use, reasonable attorney fees and a charge for overhead and administration in the amount of $15.00 plus twenty percent (20%) of any and all removal and abatement costs, regardless of the specific type of nuisance involved. (Ord. 4, §2(part), 1986; Ord. 15 §2, 1993; Ord. §7, 2008)

8.24.040 Affirmative defenses to nuisance actions. It shall be an affirmative defense to a violation of subsections 8.24.010(A), (B)(1), (2), (3) or (6), or to "Performance Standards" in City Zoning Regulations prohibiting public or private nuisances, that the thing or activity is a lawful agricultural operation which has been in operation for more than one year and was not a nuisance at the time the operation began, unless negligent operation, a material change in the operation, or a substantial increase in the size of the operation occurs to cause the nuisance. As used in this Section, "agricultural operation" shall have the same meaning as "agriculture" as defined in CRS 35-1-102(1), as amended, including "mink farms." (Ord. 8 §1, 1999)

Chapter 8.28

FIREWORKS REGULATIONS

Sections:

8.28.010 General provisions.

A. The manufacture, sale and use or fireworks within the City shall be subject to the provisions of state statutes and regulations including C.R.S. 12-28-101 et seq. and the provisions of this Code. Whichever restrictions are the more stringent shall control in the case of any conflict. "Fireworks" as used in this Chapter shall include all items commonly known or sold as fireworks.

B. No fireworks display may be conducted without the approval of the City Council. The applicant must submit proof of general liability insurance for the event in a minimum amount equal to the liability limits as set out in the Colorado Intergovernmental Immunity Act for property damage and bodily injury. Fireworks and shells to be used in authorized public displays shall be stored, held, and handled in accordance with the conditions of the permit.

C. No fireworks may be manufactured within the City of Delta.

D. Except for fireworks held for an immediate and lawful retail sale, no fireworks may be stored within the City except within the Industrial District 1. No fireworks may be stored unless a permit for storage is obtained from the City. All storage facilities shall meet the requirements of the Code for the Manufacture, Transportation and Storage of Fireworks, N.F.P.A. 1124-1984 as published by the National Fire Protection Association. In addition, all applicable storage requirements of state and federal law shall be met. The permit may be revoked for failure to comply with applicable requirements.

E. It shall be unlawful to sell fireworks at retail within the City of Delta except for (1) sales allowed by C.R.S. 12-28-106, and (2) except for sales of those items allowed under state law including toy caps which do not contain more than twenty-five hundredths of a grain of explosive compound per cap, sparklers, trick matches, cigarette loads, trick noise makers, toy smoke devices and novelty auto alarms, so long as such

devices are not capable of flight, do not travel in excess of ten feet in any direction and do not produce loud noises.

F. Any person selling fireworks shall prohibit smoking and open flames within fifty feet of the location of the fireworks and post "No Smoking" signs accordingly. Retail sales of fireworks allowed pursuant to paragraph (E)(2) may be made only from June 1st to July 5th of any year.

G. No fireworks shall be sold from any motor vehicle, travel home, trailer, or any other vehicle. (Ord. 7, §1(part) 1988)

8.28.020 Temporary stands.

A. No fireworks may be sold from a temporary stand until a permit for the stand has been obtained from the City.

B. Applications for a permit for a temporary stand shall be made on forms supplied by the City which shall contain information as convenient to administer provisions of this Section.

C. Submitted with the application shall be an application fee in the amount of $25.00 and a Certificate of Insurance indicating general liability insurance in an amount not less than $150,000 per person, $400,000 per occurrence for property damage and bodily injury, which may not be cancelled without at least thirty days notice to the City.

D. No permit shall be issued unless the City determines that the following criteria are met:

1. The applicant has a City Sales and Use Tax License and none of the applicant or its agents, employees or principals have fail to pay or remit City Sales or Use Tax in previous years.

2. Any applicable provisions of the Transient Merchant Regulations have been met.

3. The building inspector has approved the plans for the stand pursuant to Section 104(e) of the Uniform Building Code.

4. A clear zone of at least fifty feet shall be maintained around the stand.

5. The stand shall have at least one exit door a minimum of twenty inches in width and six feet in height which swings out in the direction of egress. Stands over twenty-five feet in length shall have at least two doors.

6. Each stand shall have at least one exit door a minimum of twenty inches in width and six feet in height which swings out in the direction of egress. Stands over twenty-five feet in length shall have a fire extinguisher at each end.

7. Vegetation around the stand shall be no more than two inches above grade except for trees and shrubs.

8. No smoking or burning shall be allowed within fifty feet of the stand. No fireworks shall be discharged within fifty feet of any stand.

E. The City Manager may revoke any permit if he determines at a hearing with reasonable notice that the above criteria are not being met. Any permit may be temporarily suspended pending such hearing.

F. Additional terms and conditions may be included in any permit as necessary to protect the public safety and welfare and to prevent fire hazards. (Ord. 7, §1(part), 1988)

8.28.030 Fireworks prohibited in certain areas. It shall be unlawful to discharge any fireworks in City parks or areas where a fire hazard exists. (Ord. 7, §1(part), 1988)

8.28.040 Nuisance declared. Any violation of this Chapter is hereby declared to be a nuisance which may be abated in any lawful manner. (Ord. 7, §1(part), 1988)

Chapter 8.32

SEXUALLY ORIENTED BUSINESSES

Sections:

8.32.010 Definitions.

A. For the purposes of this Chapter, the following definitions shall apply:

1. ADULT ARCADE – Any commercial establishment to which the public is permitted or invited where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image or virtual reality producing machines for viewing by persons, are used regularly to show films, motion pictures, video cassettes, slides, or other photographic, digital or electronic reproductions describing, simulating or depicting "specified sexual activities" or "specified anatomical areas."

2. ADULT BOOKSTORE, ADULT NOVELTY STORE, OR ADULT VIDEO STORE – A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations, however produced, that depict or describe "specified sexual activities" or "specified anatomical areas." Provided, however, if less than 30% of its display floor area is used for such, the business shall not be deemed an adult bookstore, adult novelty store, or adult video store; or

b. Instruments, devices, or paraphernalia which are designed for use in connection with “specified sexual activities.” Provided, however, if less than 30% of its display floor area is used for such items, the business shall not be deemed an adult bookstore, adult novelty store, or adult video store.

3. ADULT CABARET - Means a nightclub, bar, restaurant, concert hall, auditorium or other commercial establishment that features:

a.. Persons who appear nude or in a state of nudity or seminudity; or

b. Live performances that are characterized by the exposure of "specified anatomical areas" or by the exhibition of "specified sexual activities."

4. ADULT MOTEL - A hotel, motel or similar commercial establishment that offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides, or other media productions, however produced, which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," and which commercial establishment has a sign visible from the public right-of-way which advertises the availability of this adult type of media production.

5. ADULT MOTION PICTURE THEATER - A commercial establishment that is distinguished or characterized by the showing, for any form of consideration, of films, motion pictures, video cassettes, slides, or similar photographic reproductions, on more than 100 days per year, that have an "X" rating or that have an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."

6. ADULT THEATER - A theater, concert hall, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by an emphasis on exposure of "specified anatomical areas" or by "specified sexual activities."

7. COMMERCIAL ESTABLISHMENT - The term "commercial establishment" includes clubs, fraternal organizations, social organizations, civic organizations or other similar organizations, and any business engaged in commerce.

8. EMPLOYEE - A person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage, or other compensation by the operator of said business.

9. ESTABLISH A SEXUALLY ORIENTED BUSINESS - means

a. The opening or commencement of any such business as a new business;

b. The conversion of an existing business into a sexually oriented business;

c. The addition of a different sexually oriented business to any other existing sexually oriented business; or

d. The relocation of a sexually oriented business.

10. FOYER – An architectural element of a building that consists of an entry hall or vestibule that is completely enclosed and contains one door to provide access to areas outside of the building and a separate door to provide access to areas inside of the building.

11. MANAGER – An operator, who is employed by a sexually oriented business to act as a manager or supervisor of employees or is otherwise responsible for the operation of the business.

12. NUDITY OR STATE OF NUDITY:

a. The appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or

b. A state of dress which fails opaquely and fully to cover human buttocks, anus, male or female genitals, pubic region, or areola or nipple of the female breast.

13. NUDE MODEL STUDIO – Any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons.

14. OPERATOR –Includes the owner, custodian, manager, operator, or person in charge of any sexually oriented business.

15. PEEP BOOTH – A room, semi-enclosure or other similar area located within a sexually oriented business wherein a person may view representations of "specified anatomical areas" or "specified sexual activities."

16. PERSON – An individual, proprietorship, partnership, corporation, limited liability company, association, or other legal entity.

17. OWNER – Any person owning, directly or beneficially:

a. Any membership or partnership interest in a limited liability company or limited liability partnership if such person has any legal control or authority over the management or operation of the entity; or

b. In the case of any other legal entity, five percent or more of the ownership interests in the entity, except for shareholders, but including such shareholders who are corporate officers or directors or who otherwise have any legal control or authority over the management or operation of the entity.

18. PUBLIC PARK - An area of land owned by a governmental entity or private association and intended to be used for recreational purposes, including any such land that contains no improvements and is intended only for open space purposes, and including any such land that is intended for use only for pathway purposes.

19. SEXUALLY ORIENTED BUSINESS - An adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, peep booth or nude model studio. The definition of sexually oriented business shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of Colorado engages in medically approved and recognized sexual therapy, or a college, junior college or other institution which houses an adult model studio for artistic or educational purposes. An establishment engaged in commerce may have other principal business purposes that do not involve the depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as a sexually oriented business. Such other business purposes will not serve to exempt such commercial establishments from being categorized as a sexually oriented business so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas."

20. SEMINUDE OR SEMINUDITY - A state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breasts, as well as portions of the body covered by supporting straps or devices, which supporting straps or devices are used to support or enable the wearing of such clothing.

21. SPECIFIED ANATOMICAL AREAS - As used herein means and includes any of the following:

a. Human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, that are not completely and opaquely covered ; or

b. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

22. SPECIFIED CRIMINAL ACTS – Sexual crimes against children, sexual abuse, sexual assault, or crimes connected with another sexually oriented business including, but not limited to, distribution of obscenity, prostitution, or pandering.

23. SPECIFIED SEXUAL ACTIVITIES – Includes any of the following:

a. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts;

b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

c. Masturbation, actual or simulated;

d. Human genitals in a state of sexual stimulation, arousal, or tumescence; or

e. Excretory functions as part of or in connection with any of the activities set forth in subsections a through d of this definition. (Ord. 8, §1, 2004)

8.32.020 Location of sexually oriented businesses.

A. It shall be unlawful for any person to own, operate, or establish a sexually oriented business outside of the "I" Zoning Districts or on a premises abutting the premises of:

1. Any church;
2. Any public or private school;
3. Any residentially zoned property;
4. Any public park;
5. Any licensed childcare facility or daycare business;
6. Any property, public or private, that is used for and equipped with facilities for recreation, especially by children. Any area dedicated for use by children, whether or not incidental to school use, is included within the scope of this subsection.

B. It shall be unlawful for any person to own, manage, operate, or establish a sexually oriented business within a building within 100 feet of the right-of-way of Highways 50, 92, or 348.

C. It shall be unlawful for any person to own, manage, operate, or establish a sexually oriented business which does not comply with Section 18.32.040, or which is in a building within 1000 feet of any other building housing a sexually oriented business. (Ord. 8, §1, 2004; Ord. 7, §1, 2009; Ord. 4, §8, 2011)

8.32.030 Measurement of distance.

A. The distance between any two sexually oriented business buildings shall be measured in a straight line, without regard to intervening structures, between the closest exterior structural walls of each building.

B. The distance between any sexually oriented business building and a highway shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior structural wall of the sexually oriented business building to the nearest right-of-way line of the highway. (Ord. 8, §1, 2004)

8.32.040 Additional regulations.

A. All exterior windows in a sexually oriented business shall be opaque to such an extent that interior objects viewed from outside shall be so obscure as to be unidentifiable. Exterior windows in sexually oriented businesses shall not be used for any display or sign except for a sign that complies with the requirements of this Chapter.

B. All doors for ingress and egress to a sexually oriented business, except emergency exits used only for emergency purposes, shall be located on the front of the sexually oriented business. For purposes of this subsection, the front of a sexually oriented business shall be deemed to be that facade of the building that faces the front lot line of the lot or parcel on which the business is located. Every sexually oriented business shall have a foyer at every point of ingress or egress, except for emergency exits. In the case of a sexually oriented business having more than one front lot line, the sexually oriented business shall be oriented such that the front of the business faces away from the nearest of any of the land uses listed in Subsection 18.32.020(A).

C. The interior portion of the premises of a sexually oriented business to which patrons are permitted access

shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place (including peep booths) at an illumination of not less than five (5.0) foot candles as measured at the floor level. It shall be the duty of the operator, manager and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises.

D. Any adult cabaret or adult theater shall have one or more separate areas designated as a stage. Entertainers shall perform only upon a stage. The stage shall be fixed and immovable and located inside the building in which the adult use operates. No seating for the audience shall be permitted within three (3) feet of the edge of the stage. No members of the audience shall be permitted upon the stage or within three (3) feet of the edge of the stage.

E. The entire premises must be brought into compliance with Sections 15.04.080 and 15.04.090 regardless of its location, or whether a building permit is required or not. (Ord. 8, §1, 2004)

8.32.050 Conduct in sexually oriented business.

A. No owner, operator, manager or employee mingling directly with the patrons of a sexually oriented business, or serving food or drinks, shall be in a state of nudity.

B. No owner, operator, manager or employee shall encourage or knowingly permit any person upon the premises to touch, caress, or fondle the genitals, pubic region, buttocks, anus or breasts of any person.

C. It shall be unlawful for any employee of a sexually oriented business to receive tips from patrons except as set forth in subsections (D) and (E) of this Subsection.

D. An owner, operator, manager or employee who desires to provide for tips from its patrons shall establish one or more boxes or other containers to receive tips. All tips for such employees shall be placed by the patron of the sexually oriented business into the tip box.

E. A sexually oriented business that provides tip boxes for its patrons as provided in this section shall post

one or more signs to be conspicuously visible to the patrons on the premises, in bold letters at least one inch high to read as follows:

"All tips are to be placed in the tip box and not handed directly to employees. Any physical contact between a patron and employees is strictly prohibited."

F. Hours of operation.

1. It shall be unlawful for a sexually oriented business to be open for business or for the owner, operator, manager or any employee of a sexually oriented business to allow patrons upon the premises during the following time periods:

a. On any Monday through Friday, other than January 1, from 12:00 a.m. until 8:00 a.m.;

b. On any Saturday and Sunday from 2:00 a.m. until 8:00 a.m..

G. Minimum age.

1. Except for such employees as may be permitted by law, it shall be unlawful for any person under the age of eighteen years to be upon the premises of a sexually oriented business.

2. It shall be unlawful for the owner, operator, manager or any employee of the licensee to allow anyone under the age of eighteen years, except for such employees or delivery persons as may be permitted by law, to be upon the premises of a sexually oriented business.

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H. Signs for sexually oriented businesses. In addition to complying with all applicable sign regulations, a sexually oriented business shall display a sign, clearly visible and legible at the entrance to the business, that gives notice of the adult nature of the sexually oriented business and of the fact that the premises is off limits to those under the age of eighteen years. No sign for a sexually oriented business shall contain words, lettering, photographs, silhouettes, drawings or pictorial representations that emphasize specified anatomical areas or specified sexual activities. (Ord. 8, §1, 2004)

8.32.060 Enforcement.

A. The City Manager and his designated representative shall have the right of entry to inspect and enforce the provisions of this Chapter in accordance with the procedures

and provisions City Building Codes in addition to any other provisions provided by law.

B. Continuous violation of this Ordinance are hereby declared to be a nuisance which may be abated in accordance with law. (Ord. 8, §1, 2004)

Chapter 8.34

Certain Medical Marijuana Businesses and Operations Prohibited

Sections:

8.34.010 General Prohibitions and Related Exceptions.

A. No license to establish, operate, continue to operate or permit to be operated any medical marijuana center, optional premises cultivation operation or medical marijuana infused products manufacturing or sale facility shall be lawful in the City of Delta. No person shall maintain any such business or operation or any other enterprise engaged in the possession, use, cultivation, production, sale or distribution of marijuana or marijuana products other than those which are properly conducted by patients and primary care givers as expressly allowed by, and specifically conforming with, the provisions of Article XVIII, Section 14 of the Colorado Constitution and any related State laws and regulations.

B. The overall intent of this Section is to fully exercise the City's local option allowed under C.R.S. 12-43.3-106. No intent to deprive or limit the rights of medical marijuana patients and their primary care givers established under the said Amendment of the Colorado Constitution, or under any related State law and regulations, shall be inferred from this Section. (Ord. 1, 2011)

8.34.020 Violations and Enforcement Remedies. Any violation of Section 8.34.010 by any person or entity may be referred by the City for appropriate criminal prosecution by the Seventh Judicial District Attorney pursuant to pertinent provisions of C.R.S. 12-43.3-101 *et seq*. Any such violation may also be pursued as a public nuisance subject to abatement in any lawful manner. In this regard, the City may pursue any one or more of the specific remedies for abatement of nuisances set forth in Delta Municipal Code Section 8.24.020. (Ord. 1, 2011)

8.34.030 Declaration and Confirmation of Nuisance. Any business in the City limits which conducts the cultivation, manufacture, harvest, sale, use or distribution of marijuana or

marijuana products in any form, other than as may be authorized for patients and primary care givers under Article XVIII, Section 14 of the Colorado Constitution, is hereby confirmed to be an ongoing nuisance in keeping with the letter and spirit of long-standing provisions of Section 8.24.010 of the Delta Municipal Code. (Ord. 1, 2011)

8.34.040 Definitions. As used in this Chapter 8.34, the following definitions shall apply:

A. The term "marijuana" or "useable form of marijuana" (sometimes spelled "marihuana" or referred to by the scientific name of "*cannabis sativa*") and the terms "medical use", "patient" and "primary care giver" shall have the same meaning as those terms are defined by said Article XVIII, Section 14(1) of the Colorado Constitution.

B. The terms "medical marijuana", "medical marijuana center", "medical marijuana infused product", "medical marijuana infused product manufacturer" and "optional premises cultivation operation" shall have the same meaning as those terms are defined by C.R.S. 12-43-101 *et seq.*, as supplemented by any regulations lawfully adopted by authority of said Colorado statutes.

C. The term "person" shall mean any natural person, partnership, association, company, corporation, limited liability company or other organization or entity, and shall include a manager, agent, owner, officer or an employee of such organization or entity.

D. The term "possess or possession" shall mean having physical control of a pertinent substance or product controlled by this Section, or control of the premises in which such substance or product is located or having the power and intent to control such substance or product, without regard to whether the one in possession has actual ownership of such substance or product. Possession may be held by more than one person at a time. Direct consumption or use of the pertinent substance or product is not required for purposes of determining its possession.

E. The term "produce or production" means (a) all phases of growth of marijuana from seed to harvest, (b) combining marijuana with any other substance for sale or distribution, including storage and packaging for resale, and (c) preparing, compounding, processing, and encapsulating, packaging, or re-packaging, labeling or re-labeling of any

marijuana or its derivatives whether alone or mixed with any amount of any other substance or product.

F. All other pertinent definitions provided in C.R.S. 12-43.3-101 *et seq*. shall apply verbatim to this Chapter 8.34 unless otherwise expressed or reasonably implied herein. (Ord. 1, 2011)

CHAPTER 8.36

CONTROL OF SMOKING

Sections:

8.36.010 Legislative Declaration. The City of Delta hereby finds and determines that it is in the best interest of the people of this City to protect nonsmokers from involuntary exposure to environmental tobacco smoke in most indoor areas open to the public, public meetings, food service establishments, and places of employment. The City further finds and determines that a balance should be struck between the health concerns of nonconsumers of tobacco products and the need to minimize unwarranted governmental intrusion into, and regulation of, private spheres of conduct and choice with respect to the use or nonuse of tobacco products in certain designated public areas and in private places. Therefore, the City hereby declares that the purpose of this Chapter is to preserve and improve the health, comfort, and environment of the people of this City by limiting exposure to tobacco smoke. (Ord. 13 §1, 2006)

8.36.020 Definitions. As used in this Chapter, unless the context otherwise requires:

(1) "Auditorium" means the part of a public building where an audience gathers to attend a performance, and includes any corridors, hallways, or lobbies adjacent thereto.

(2) "Bar" means any indoor area that is operated and licensed under Article 47 of Title 12, C.R.S., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages.

(3) "Cigar-tobacco bar" means a bar that, in the calendar year ending December 31, 2005, generated at least five percent or more of its total annual gross income or fifty thousand dollars in annual sales from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines. In any calendar year after

December 31, 2005, a bar that fails to generate at least five percent of its total annual gross income or fifty thousand dollars in annual sales from the one-site sale of tobacco products and the rental of on-site humidors shall not be defined as a "cigar-tobacco bar" and shall not thereafter be included in the definition regardless of sales figures.

(4) "Employee" means any person who:

(a) Performs any type of work for benefit of another in consideration of direct or indirect wages or profit; or

(b) Provides uncompensated work or services to a business or nonprofit entity.

"Employee" includes every person described in this subsection (4), regardless of whether such person is referred to as an employee, contractor, independent contractor, or volunteer or by any other designation or title.

(5) "Employer" means any person, partnership, association, corporation, or nonprofit entity that employs one or more persons. "Employer" includes, without limitation, the legislative, executive, and judicial branches of state government; any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, special district, authority, commission, or agency; or any other separate corporate instrumentality or unit of state or local government.

(6) "Entryway" means the outside of the front or main doorway leading into a building or facility that is not exempted under Section 8.36.040. "Entryway" also includes the area of public or private property within a specified radius outside of the doorway. The specified radius shall be fifteen feet.

(7) "Environmental tobacco smoke," "ETS," or "secondhand smoke" means the complex mixture formed from the escaping smoke of a burning tobacco product, also known as "sidestream smoke," and smoke exhaled by the smoker.

(8) "Food service establishment" means any indoor area or portion thereof in which the principal business is the sale of food for on-premises consumption. The term includes, without limitation, restaurants, cafeterias, coffee shops, diners, sandwich shops, and short-order cafes.

(9) "Indoor area" means any enclosed area or portion thereof. The opening of windows or doors, or the temporary removal of wall panels, does not convert an indoor area into an outdoor area.

(10) "Place of employment" means any indoor area or portion thereof under the control of an employer in which employees of the employer perform services for, or on behalf of, the employer.

(11) "Public building" means any building owned or operated by:

(a) The state, including the legislative, executive, and judicial branches of state government;

(b) Any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, a special district, an authority, a commission, or an agency; or

(c) Any other separate corporate instrumentality or unit of state or local government.

(12) "Public meeting" means any meeting open to the public pursuant to Part 4 of Article 6 of Title 24, C.R.S., or any other law.

(13) "Smoke-free working area" means an indoor area in a place of employment where smoking is prohibited under this Chapter.

(14) "Smoking" means the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco.

(15) "Tobacco" means cigarettes, cigars, cheroots, stogies, and periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. "Tobacco" also includes cloves and any other plant matter or product that is packaged for smoking.

(16) "Tobacco business" means a sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco products, or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture, or promotion of other products is merely incidental.

(17) "Work area" means an area in a place of employment where one or more employees are routinely assigned and perform services for or on behalf of their employer. (Ord. 13 §1, 2006)

8.36.030 General Smoking Restrictions.

A. Except as provided in Section 8.36.040, and in order to reduce the levels of exposure to environmental tobacco smoke, smoking shall not be permitted and no person shall smoke in any indoor area, including, but not limited to:

(a) Public meeting places;

(b) Elevators;

(c) Government-owned and or operated means of mass transportation, including, but not limited to, buses, vans, and trains;

(d) Taxicabs and limousines;

(e) Grocery stores;

(f) Gymnasiums;

(g) Jury waiting and deliberation rooms;

(h) Courtrooms;

(i) Child day care facilities;

(j) Health care facilities including hospitals, health care clinics, doctor's offices, and other health care related facilities;

(k) (I) Any place of employment that is not exempted.

(II) In the case of employers who own facilities otherwise exempted from this Chapter, such employer shall provide a smoke-free work area for each employee requesting not to have to breathe environmental tobacco smoke. Every employee shall have a right to work in an area free of environmental tobacco smoke.

(l) Food service establishments;

(m) Bars;

(n) Limited gaming facilities and any other facilities in which any gaming or gambling activity is conducted;

(o) Indoor sports arenas;

(p) Restrooms, lobbies, hallways, and other common areas in public and private buildings, condominiums, and other multiple-unit residential facilities;

(q) Restrooms, lobbies, hallways, and other common areas in hotels and motels, and in at least seventy-five percent of the rooms or units designated as sleeping quarters within a hotel or motel that are rented to guests;

(r) Bowling alleys;

(s) Billiard or pool halls;

(t) Facilities in which games of chance are conducted;

(u) The common areas of retirement facilities, publicly owned housing facilities, and nursing homes, not including any resident's private residential quarters;

(v) Public buildings;

(w) Auditoria;

(x) Theaters;

(y) Museums;

(z) Libraries;

(aa) To the extend not otherwise provided in Section 25-14-103.5, C.R.S., public and non-public schools;

(bb) Other educational and vocational institutions; and

(cc) The entryways of all buildings and facilities listed in paragraphs (a) to (bb) of this subsection (A).

B. A cigar-tobacco bar shall not expand its size or change its location from the size and location in which it existed as of December 31, 2005. A cigar-tobacco bar shall display signage in at least one conspicuous place and at least four inches by six inches in size stating: "Smoking allowed. Children under eighteen years of age must be accompanied by a parent or guardian." (Ord. 13 §1, 2006)

8.36.040 Exceptions to Smoking Restrictions. This Chapter shall not apply to:

(1) Private homes, private residences, and private automobiles; except that this Chapter shall apply if any such home, residence, or vehicle is being used for child care or day care or if any private vehicle is being used for the public transportation of children or as part of health care or day care transportation.

(2) Limousines under private hire;

(3) A hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed twenty-five percent.

(4) Any retail tobacco business;

(5) A cigar-tobacco bar;

(6) An airport smoking concession;

(7) The outdoor area of any business;

(8) A place of employment that is not open to the public and that is under the control of an employer that employs three or fewer employees;

(9) A private, non-residential building on a farm or ranch, as defined in Section 39-1-102, C.R.S., that has annual gross income of less than five hundred thousand dollars. (Ord. 13 §1, 2006)

8.36.050 Optional Prohibitions.

A. The owner or manager of any place not specifically listed in Section 8.36.030, including a place otherwise exempted under Section 8.36.040, may post signs prohibiting smoking or providing smoking and non-smoking areas. Such posting shall have the effect of including such place, or the designated non-smoking portion thereof, in the places where smoking is prohibited or restricted pursuant to this Chapter.

B. If the owner or manager of a place not specifically listed in Section 8.36.030, including a place otherwise exempted under Section 8.36.040, is an employer and receives a request from an employee to create a smoke-free work area as contemplated by Section 8.18.030(1)(k)(I), the owner or manager shall post a sign or signs in the smoke-free work area as provided in subsection (1) of this section. (Ord. 13 §1, 2006)

8.36.060 Unlawful Acts – Penalty – Disposition of Fines and Surcharges.

A. It is unlawful for a person who owns, manages, operates, or otherwise controls the use of a premises subject to this Chapter to violate any provision of this Chapter.

B. It is unlawful for a person to smoke in an area where smoking is prohibited pursuant to this Chapter.

C. A person who violates this Chapter 8.36, upon conviction thereof, shall be punished by a fine not to exceed two hundred dollars for a first violation within a calendar year, a fine not to exceed three hundred dollars for a second violation within a calendar year, and a fine not to exceed five hundred dollars for each additional violation within a calendar year. Each day of a continuing violation shall be deemed a separate violation. (Ord. 13 §1, 2006)

Title 9

PUBLIC PEACE, MORALS AND WELFARE

Chapters:

Chapter 9.04

MISCELLANEOUS OFFENSES

Sections:

9.04.010 Applicability. All provisions of this Chapter shall apply within the Delta city limits and upon any property

owned or under the control of the City outside of the City. (Ord. 4, §1(part), 1986)

9.04.020 Complicity. A person is legally accountable as principal for the behavior of another constituting a violation of any provision of any City ordinance, if, with intent to promote or facilitate the commission of the offense, he aids, abets or advises the other person in planning or committing the offense. (Ord. 4, §1(part), 1986)

9.04.030 Criminal liability of a corporation. A corporation is guilty of an offense if the conduct constituting the offense consists of an omission to discharge a specific duty of affirmative performance impose on the corporation by ordinance; or the conduct constituting the offense is engaged in, authorized, solicited, requested, commanded or knowingly tolerated by the board of directors, or by a high managerial agent, acting within the scope of employment or in behalf of the corporation. (Ord. 4, §1(part), 1986)

9.04.040 Criminal liability of an individual for corporate conduct. A person is criminally liable for conduct constituting an offense which he performs or causes to occur in the name of or on behalf to a corporation to the same extent as if that conduct were performed or caused by him in his own behalf. (Ord. 4, §1(part), 1986)

9.04.050 Criminal attempt.

A. A person commits criminal attempt, if, acting with the kind of culpability otherwise required for commission of a violation of a City ordinance, he engages in conduct constituting a substantial step towards the commission of the offense. A substantial step is any conduct, whether act, omission or possession, which is strongly corroborative of the actor's purpose to complete the commission of the offense. Factual or legal impossibility of committing the offense is not a defense if the offense could have been committed had the attendant circumstances been as the actor believed them to be, nor is it a defense if the crime attempted was actually perpetrated by the accused.

B. A person who engages in conduct intending to aid another to commit an offense commits criminal attempt if the conduct would establish his complicity under Section 9.04.020 were the offense committed by the other person, even if the other person is not guilty of committing or attempting the offense.

C. It is an affirmative defense to a charge under this subsection that the defendant abandoned his effort to commit the offense or otherwise prevented its commission under circumstances manifesting the complete and voluntary renunciation of his criminal intent. (Ord. 4, §1(part), 1986)

9.04.060 Accessory to an offense.

A. A person is an accessory to an offense if, with an intent to hinder, delay, or prevent the discovery, detection, apprehension, prosecution, conviction or punishment of another for the commission of a violation of a City ordinance, he renders assistance to such person.

B. "Renders assistance" means to:

1. Harbor or conceal the other; or

2. Warn such person of impending discovery or apprehension; or

3. Provide such person with money for transportation, weapon, disguise or other things to be used in avoiding discovery or apprehension; or

4. By force, intimidation, or deception, obstruct anyone in the performance of any act which might aid in the discovery, detection, apprehension, prosecution, conviction or punishment of such person. (Ord. 4, §1(part), 1986)

9.04.070 Destruction of property.

A. It shall be unlawful for any person to wilfully deface, destroy or damage real or personal property belonging to another.

B. This Section shall not apply where, in a single criminal episode, the aggregate damage to personal and real property exceeds three hundred dollars ($300.00). (Ord. 4, §1(part), 1986)

9.04.080 Posting of handbills.

A. It shall be unlawful to post or attach any handbill, placard, poster, or printed material, or to paint, write, or mark upon any building, fence, utility pole, vehicle or other structure without permission of the owner or party in lawful possession of the such structure or vehicle.

B. Anything posted or attached in violation of this Section is hereby declared to be a nuisance which may abated pursuant to law. (Ord. 4, §1(part), 1986)

9.04.090 Trespass.

A. It shall be unlawful for any person to enter upon the premises of another which are enclosed in a manner designed to

exclude intruders, or are fenced, when he is not licensed, invited or otherwise privileged to do so.

For purposes of this subsection only, "premises" shall mean real property, excluding a dwelling or a motor vehicle.

B. It shall be unlawful for any person to remain on the premises of another if he has been advised that his permission, license or privilege to be there has been revoked by the owner or the premises or other authorized person.

C. It shall be unlawful for any person to enter onto or remain upon public or private property of another without license, right or privilege to do so when signs are posted prohibiting such activity. (Ord. 4, §1(part), 1986)

9.04.100 Discharge of guns prohibited.

A. It is unlawful for any person, other than a law enforcement officer, to discharge a firearm, spring gun, air gun, pellet gun, BB gun or any other gun within the City, except upon a range totally enclosed within a building adequately constructed so that no noise or odor is observable and no projectiles travel off the range premises.

B. 1. This Section shall not apply to the lawful use of a gun in protection of persons or property, including one's animals and pets.

2. This Section shall not apply to the lawful use of a gun to destroy one's own animals or pets within the A-1 and R-R Zoning Districts.

C. This Section shall not apply when a permit has been granted by the City Council for a special event. No permit shall be granted unless the Council determines that no nuisance, unreasonable noise or safety hazard will be created.

D. This Section shall not apply to the lawful use of a shotgun no larger than a twelve gauge in the A-1 zoning district on tracts of land five acres or greater in area, except City-owned property for the hunting of birds in accordance with the laws and regulations of the State of Colorado so long as none of the shot travels off of said premises. (Ord. 4, §1(part), 1986; Ord. 22, §1, 1998; Ord. 2, §2, 2002)

9.04.110 Interference with an officer. It shall be unlawful for any person to interfere with, or by using or threatening to use violence, force or physical interference or obstacle, to obstruct, impair or hinder the enforcement of the law or preservation of the peace by a peace officer acting under color of his official authority, or the performance of a governmental function by an officer, employee or agent of the

City acting in the lawful performance of his duties. (Ord. 4, §1(part), 1986)

9.04.120 Resisting arrest.

A. It shall be unlawful to prevent or attempt to prevent a peace officer acting under color of his official authority from effecting an arrest of the actor or another person by using or threatening to use physical force or violence against the peace officer or another, or by using any other means which creates a substantial risk of causing physical injury to the peace officer or another.

B. It is no defense to a prosecution under this Section that the peace officer was attempting to make an arrest which in fact was unlawful, if he was acting under the color of his official authority, and in attempting to make the arrest he was not resorting to unreasonable or excessive force giving rise to the right of self-defense. (Ord. 4, §1(part), 1986)

9.04.130 Indecent conduct. It shall be unlawful for any person to urinate or defecate in any place except sanitary facilities constructed for the purpose connected to an authorized sewage collection system or authorized individual sewage disposal system. (Ord. 4, §1(part), 1986)

9.04.140 Disorderly conduct. It is unlawful for any person to intentionally, knowingly or recklessly:

A. Make a coarse and obviously offensive utterance, gesture or display in a public place and the utterance, gesture or display tends to invite the immediate breach of peace; or

B. Fight with another person in a public place, except in an amateur or professional contest of athletic skill; or

C. Not being a peace officer, display a deadly weapon in a public place in a manner calculated to alarm; or

D. Make unreasonable noise in a public place or near a private residence that he has no right to occupy; or

E. Abuse or threaten a person in a public place in an obviously offensive manner; or

F. Strike, shove, kick or otherwise touch a person or subject him to physical contact with intent to harass, annoy or alarm. (Ord. 4, §1(part), 1986)

9.04.150 Impersonating an officer. It shall be unlawful for any person to impersonate a peace officer or other City officer, agent or employee and perform any act in that pretended capacity. (Ord. 4, §1(part), 1986)

9.04.160 Petty theft.

A. It is unlawful for any person to knowingly obtain or exercise control over anything of value, having a value of less than three hundred dollars ($300.00), of another without authorization or by threat of deception, or knowing said thing of value to have been stolen; and

1. Intend to deprive the other person permanently of the use or benefit of the thing of value; or

2. Knowingly use, conceal or abandon the thing of value in such a manner as to deprive the other person permanently of its use or benefit; or

3. Use, conceal or abandon the thing of value intending that such use, concealment, or abandonment will deprive the other person permanently of its use and benefit; or

4. Demand any consideration to which he is not legally entitled as a condition of restoring the thing of value to the other person.

B. If any person wilfully conceals unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or any other mercantile establishment, whether such concealment is on his own person or otherwise, and whether on or off the premises of such store or mercantile establishment, such concealment shall constitute prima facie evidence that such person intended to commit the offense of petty theft.

C. The offense of petty theft shall not include theft from the person of another. (Ord. 4, §1(part), 1986)

9.04.170 Shoplifting.

A. It shall be unlawful for any person to wilfully take possession of any goods, wares or merchandise, having a value of less than three hundred dollars ($300.00), and owned or held by and offered or displayed for sale by any store or mercantile establishment, with the intention of converting such goods, wares or merchandise to his own use without paying the purchase price.

B. If any person wilfully conceals unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or any other mercantile establishment, such concealment shall constitute prima facie evidence that such person intended to commit the offense of shoplifting. (Ord. 4, §1(part), 1986)

9.04.190 Cruelty to animals.

A. It shall be unlawful for any person owning or in custody of any animal to fail to provide any animal with

adequate food, water, shelter and veterinary care when reasonably required.

B. It shall be unlawful for any person to beat, cruelly ill-treat, overload, overwork, or otherwise abuse any animal, or cause or permit any dog fight, cockfight, bullfight or other combat between animals or between animals and humans.

C. It shall be unlawful for the owner or custodian of any animal to abandon such animal. (Ord. 4, §1(part), 1986)

9.04.200 Window peeping. It shall be unlawful for any person to enter or remain upon the property of another with the intent to peer or peep into any window of a dwelling of another. (Ord. 4, §1(part), 1986)

9.04.210 Tampering with public utilities. It shall be unlawful for any person to interfere with, tamper with, damage, destroy, or operate any part of any utility system, including power, gas, telephone, CATV systems, or to connect to such systems, or utilize service from such systems without lawful authorization to do so. (Ord. 4, §1(part), 1986)

9.04.220 False fire alarms. It is unlawful for any person to turn in a false alarm, or in any manner to deceive or attempt to deceive the fire department or any officer or employee thereof with reference to any fire alarm or reported fire, or to cause the fire department or its officers or employees to make a useless run. (Ord. 4, §1(part), 1986)

9.04.230 Removal of barricades. It is unlawful for any person except by proper authority to remove any barricade, warning light, or obstruction placed by authority of the City to keep traffic off any pavement, street, curb, sidewalk, or other area, or otherwise to warn or direct traffic. (Ord. 4, §1(part), 1986)

9.04.240 Tampering with CATV.

A. It shall be unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of the CATV system within this City for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program or sound, without payment to the operator of said system.

B. It shall be unlawful for any person, without the consent of the owner, to wilfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound. (Ord. 10, §2, 1993)

9.04.250 Juvenile loitering.

A. It shall be unlawful for any person under the age of 18 years to loiter on or about any street, avenue, highway, road, sidewalk, curb, gutter, parking lot, alley, vacant lot, park, playground, yard, building, place of amusement, or eating place, whether public or private, without the consent or permission of the owner or occupant thereof, during the hours from 12:00 a.m. through 6:00 a.m. on Saturdays and Sundays, and from 10:00 p.m. on Sundays, Mondays, Tuesdays, Wednesdays, and Thursdays, to 6:00 a.m. of the following day. No violation of this subsection will have occurred if the person under the age of 18 years is accompanied by a parent, guardian or other adult person over the age of 21 years who is authorized by a parent or guardian of such juvenile to take said parent's place in accompanying said juvenile for a designated period of time and purpose within a specified area.

B. It shall be unlawful for the parent, guardian, or other adult person having the care and custody of a juvenile under the age of 18 years to knowingly permit or allow such juvenile to loiter at the places and within the time prohibited by subsection A of this section. The term "knowingly" includes knowledge which a parent should be reasonably expected to have concerning the whereabouts of a juvenile in that parent or guardian's custody. It shall be no defense that a parent, guardian, or other person having care and custody of the juvenile was indifferent to the activities, conduct or whereabouts of such juvenile.

C. "Loitering" or "Loiter" shall mean remaining idle in essentially one location, to be dilatory, to tarry, to dawdle, and shall include but not be limited to standing around, hanging out, sitting, kneeling, sauntering or prowling. (Ord. 11, §1, 1995)

9.04.260 Keeping disorderly premises.

A. It shall be unlawful for any person owning or controlling any premises to knowingly, intentionally, or recklessly permit, allow, occasion, encourage, suffer, or cause upon such premises any drunkenness, quarreling, fighting, or riotous or disorderly conduct, which unreasonably disturbs the quiet enjoyment of any other property.

B. Keeping a disorderly premises is hereby declared to be a nuisance which may be abated in any lawful manner. (Ord. 31, §1, 2001)

9.04.280 Fraudulent Identification Documents.

A. It shall be unlawful for any person in the City of Delta, Colorado to either: (1) possess an identification document that is forged, counterfeited or possessed for the purpose of committing an act in violation of law, or (2) possess an identification document that was validly issued but subsequently altered by someone other than the issuing agency, or (3) possess any identification document belonging to another person with the intent to use it as having been issued to the person in possession of the document, or (4) display or present an identification document of another person in an manner that falsely suggests that it was issued to the person displaying or presenting it, or (5) loan or provide a valid identification document to another person when the provider knows, or reasonably should know, that the document will be deceptively used by the person to whom it is provided for identification purposes and as having been properly issued to such user.

B. For purposes of this section, "identification documents" mean documents that were issued to a particular person for the purpose of establishing the proper identity of that person to others. Such documents include those issued by national, state and local governments and governmental agencies that contain personal identification data such as, but without limitation (1) licenses and registrations for driving motor vehicles, conducting occupations or professions etc. (2) birth certificates, (3) social security cards, and (4) other official identification cards. An identification document is of another person if it was validly issued for a person other than the possessor of the document.

C. A liquor licensee in the City of Delta, or an employee of such a liquor licensee, may cease and hold for evidence any identification document, if acting in good faith and upon reasonable belief that the identification document is possessed, displayed or presented in violation of this section. (Ord. 3, §1, 2009)

Title 10

VEHICLES AND TRAFFIC

Chapters:

Chapter 10.04

TRAFFIC REGULATIONS

Sections:

10.04.010 Adoption of Model Code. There is hereby adopted by reference Articles I and II inclusive of the 2003 edition of the "Model Traffic Code for Colorado Municipalities" promulgated and published as such by the Colorado Department of Transportation, Staff, Traffic and Safety and Safety Project Branch, 4201 East Arkansas Avenue, Denver, Colorado 80222. The subject matter of said Code relates primarily to comprehensive traffic control regulations for the City. The purpose of this Chapter and the Code adopted herein is to provide a system of traffic regulations consistent with State law and generally conforming to similar regulations throughout the State and Nation. (Ord. 8 §1, 1978; Ord. 22 §1, 1996; Ord. 7 §1, 2006)

10.04.020 Application. This Chapter shall apply to every street, alley, sidewalk area, driveway, park, and to every other public way or public place or public parking area, either within or outside the corporate limits of this municipality, the use of which this municipality has jurisdiction and authority to regulate. The provisions of Sections 1401, 1402 and 1413 of the adopted Model Traffic Code, respectively, concerning reckless driving, careless driving, and eluding officers shall apply not only to public places and ways, but also throughout this municipality. (Ord. 8 §4, 1978; Ord. 22 §1, 1996; Ord. 7 §1, 2006)

10.04.030 Copies.

A. One copy of the Model Traffic Code and any secondary code pertaining thereto certified to be true copies by the Mayor and Clerk shall be kept filed in the Office of the Clerk available for public inspection.

B. The Clerk shall maintain a reasonable supply of copies of the Model Traffic Code adopted herein for purchase by the public at a moderate price. (Ord. 8 §7, 1978; Ord. 22 §1, 1996; Ord. 7, §1, 2006)

10.04.040 Parking Restrictions.

A. No person shall park any vehicle or trailer with a factory rating of more than one ton and/or which exceeds a height of 7’6” or a width of 8 feet or a length of 21 feet on any street or public right-of-way in any district zoned for residential use, for a period of more than one (1) hour unattended. Vehicles designed for handicapped persons or emergency medical vehicles shall be exempted from the provisions of this section.

B. No person shall park any vehicle or trailer on Block 4 of the original plat of the Town, now City, of Delta, commonly known as the Lincoln Parking Lot, during the hours of 3:00 a.m. to 5:00 a.m.

C. Where parking spaces are delineated by markings on the streets and City-owned property, all vehicles shall be properly parked completely within such marked spaces. (Ord. 8 §9, 1978; Ord. 22 §1, 1996; Ord. 33 §3, 1996; Ord. 7 §1, 2006)

Chapter 10.08

RAILROADS

Sections:

10.08.010 Climbing on moving trains. It is unlawful for any person to climb upon, hold to or in any manner attach himself to any railroad train, locomotive or railway car while such is in motion within the City, unless such person is acting in line of duty. (Prior Code, §20-1)

10.08.020 Speed limit of trains. It is unlawful to drive, pull, move or operate a locomotive, train or any other rolling stock of a railroad at a speed of more than twenty-five miles per hour within the corporate limits of the City. (Prior Code, §20-2)

10.08.030 Trains not to block streets. It is unlawful for the directing officer or the operator of any railroad train to direct the operation of or to operate the same in such a manner as to prevent the use of any street for purposes of travel for a period of time longer than five minutes, except that this provision shall not apply to trains or cars in motion other than those engaged in switching. (Prior Code, §20-3)

Title 12

STREETS, SIDEWALKS AND PUBLIC PLACES

Chapters:

Chapter 12.04

MAJOR STREET PLAN

Sections:

12.04.010 Adopted. The Major Street Plan adopted by the Planning Commission on the third day of November, 1975, and certified to the City Council, together with the map and any other descriptive matter attached thereto, is adopted as the Major Street Plan of the City, pursuant to 1973 C.R.S. 31-23-106 and 108, and after public hearing before the Planning Commission as provided by law. (Ord. 1, §1, 1976)

12.04.020 Filing. It is further ordered that a certified copy of the Ordinance codified in this Chapter and the Major Street Plan, map and attachments shall be filed in the office of the County Clerk and Recorder. (Ord. 1, §2, 1976)

Chapter 12.08

STREET AND SIDEWALK USE REGULATIONS

Sections:

12.08.010 Trees and shrubbery--Trimming.

A. The owner of any premises abutting on any street of this City shall trim all trees and shrubbery growing in the parking, between the sidewalks and the roadway, of any such street; and all trees and shrubbery growing on any part of the premises adjacent to the sidewalks or any street or alley, in such manner that the boughs of limbs thereof shall not obstruct free and convenient passage and travel along the streets, sidewalks and alleys. When such premises are occupied by some person other than the owner, such occupant shall trim the trees and shrubbery in the same manner as required by the owner. Such trees and shrubbery shall be trimmed so that the lowest branches or foliage shall not be lower than ten feet above the roadway of a street or alley, nor lower than eight feet above the sidewalk.

B. Any owner or occupant who fails, refuses or neglects to trim trees and shrubbery as provided in subsection A of this Section, after receiving five days' notice from the head of the department in charge of streets to do so, shall be guilty of a misdemeanor. Every day that the owner or occupant fails, refuses or neglects to trim the trees and shrubbery, after the expiration of the five days' notice, shall be a separate offense. (Prior Code, §18-1 & §18-2)

12.08.020 Trees and shrubbery--Injury unlawful. It is unlawful for any person to injure any tree and shrubbery on a street or alley or other public area in the City; provided that this shall not prohibit the lawful and proper care and removal of such trees and shrubbery. (Prior Code §18-3)

12.08.040 Openings generally. Any person who leaves or keeps open a cellar door, pit or vault, or other subterraneous opening, on or in any highway or sidewalk, or suffers the same to be left or kept open, or to be left in an insecure condition so that passersby will be in danger of falling into such cellar, pit or vault, or other subterraneous opening, shall be guilty of a misdemeanor. (Prior Code §18-11)

12.08.050 Warning lights and fences required for excavations. No City officer, contractor or other person shall make any excavation or dig any hole, drain or ditch in any highway or sidewalk without providing, during the night, sufficient warning lights or flares to be placed with a temporary fence or suitable obstruction around or in front of any such excavation, hole, drain or ditch, in order to prevent persons, animals or vehicles from falling into the same; and every person offending against the provisions of this Section shall be guilty of a misdemeanor. (Prior Code §18-12)

12.08.060 Requirements for deposit of building materials. No contractor, owner or builder shall deposit any building materials, debris or other obstruction on any street in the City so that it shall extend over more than one-third of the width of such street from the lot line where such building is being erected. Every such contractor, owner or builder shall place a warning light during the nighttime at each end of the obstruction; and if the building is on a corner of a street, there shall be placed a warning light at the extreme angle of such obstruction. Every person violating any provision of this Section shall be guilty of a misdemeanor. (Prior Code §18-13)

12.08.070 Digging in streets or alleys. Any person or persons who dig any hole, drain or ditch in any street or alley of this City without first having obtained written permission from the City Manager or his authorized representative shall be guilty of a misdemeanor. (Prior Code §18-15)

12.08.080 Obstructing or hindering street repairs. Any person who hinders or obstructs the lawful making or repairing of any pavement, sidewalk or crosswalk, or hinders or obstructs any person employed by the City, or any such person employed in

making or repairing any public improvement or work ordered by the City shall be guilty of a misdemeanor. (Prior Code §18-17)

12,08.090 Obstruction of drainage ditches. All persons, firms and corporations, or their agents or employees, are prohibited from placing any obstruction in drainage ditches or drains along the streets and alleys of the City, and are prohibited from doing any act which will obstruct the flow of water along ditches or drains. (Prior Code §18-10)

12.08.100 Irrigation ditches.

A. It is made unlawful to construct a new ditch along any street or alley for the purpose of conducting water to be used for the purpose of irrigation. Any person conducting water through existing ditches shall not permit the same to overflow the streets and alleys, and shall convey the same into some street main or other drainage approved by the City Manager, and shall keep the ditches clean. Owners of adjacent property shall not permit such ditches to become obstructed by vegetation or debris.

B. If any person violates any provision of this Section, such person shall be guilty of a misdemeanor. (Prior Code §18-18 & 18-19)

12.08.130 Fluids from filling stations and businesses. It is unlawful for any owner or operator of a filling station or other place of business, or any agent or employee thereof, to cause or allow water, grease or other fluid to flow or drain into, upon, over or across any sidewalk, parking, street, alley or other public way, except for washing of sidewalks or driveways for the purpose of cleaning. (Prior Code §18-8)

12.08.140 Allowing sidewalk area to become a hazard. It is unlawful for the owner or occupant of property abutting upon a sidewalk or sidewalk area to permit the sidewalk or sidewalk area to become a hazard to persons using the sidewalk or sidewalk area. (Prior Code §18-9)

12.08.150 Injuring pavement or riding over sidewalks. Any person who injures or tears up any pavement or any sidewalk without due authority or who wilfully rides or drives any vehicle, horse, mule, cow or like animal over or on any of the sidewalks of the City shall be guilty of a misdemeanor. (Prior Code §18-16)

12.08.160 Playing in streets. No person shall, upon any street or sidewalk within the corporate limits of the City, nor

in any public place in the City, engage in any game of ball, the flying of kites, or rolling of hoops, or any other amusements or practice or exercise having a tendency to annoy persons passing in the street or on the sidewalks, and any person convicted of any of these offenses shall be guilty of a misdemeanor; provided the provisions of this Section shall not apply to games of ball played upon regularly established and enclosed ball grounds, nor to games played at other places than regularly established ball grounds when permit for playing the game or games, designating the place where the same are to be played, shall have been issued by the City Manager; provided further that this shall not prohibit playing on streets set aside for playing as authorized by ordinance. (Prior Code §18-14)

12.08.170 Skateboarding and bicycles prohibited in downtown area. It shall be unlawful for any person to skateboard or ride a bicycle on Main Street sidewalks between First and Seventh Streets or on sidewalks on those portions of First through Seventh Streets lying between Meeker and Palmer Streets. (Ord. 15, §1, 1989)

Chapter 12.10

USE OF PUBLIC PROPERTY

Sections:

12.10.010 Use of public property for private purposes. It shall be unlawful for any person to use public property or rights of way including, but not limited to, that portion of any street right of way outside of the roadway, for private purposes, except as permitted by ordinance, franchise, public right, lease, Council permit, or otherwise in accordance with law. (Ord. 3, §6(part), 1987)

12.10.020 Obstruction of rights of way.

A. It shall be unlawful for any person to construct any fence or other improvement, to place anything upon, or to plant any hedge, shrubs, trees or other plantings upon any public property, including streets, sidewalks and any part of a street right of way not being used for traffic that would impede or obstruct normal pedestrian traffic or vehicular traffic or would create a traffic hazard by sight barrier to or from motor vehicles, bicyclists, pedestrians, or would create any other safety hazard.

B. If the limitations of subsection (A) above are met along with any other applicable requirements of City ordinances and regulations, the party in lawful possession of property abutting those parts of street rights of way which are not being used for vehicular or pedestrian traffic or other public use may landscape and maintain such portions of the street right of way.

C. No person using public street right of way or other property for any purpose allowed under this Section shall acquire any vested right or interest in any part of such public property by virtue of any such use or the installation and maintenance of improvements or landscaping upon it and shall, upon the demand of the City, remove any improvements, landscaping or other property from the public property affected.

D. Any person using or maintaining public property as allowed by this Section shall do so in a careful and prudent manner in compliance with all City ordinances and shall be responsible for any damages caused by their negligent acts or failure to act. (Ord. 3, §6(part), 1987)

12.10.030 Permits.

A. The City Council may grant a special permit for the temporary use or occupation of a street, alley or other public property for civic events, parades, special sales or other events of a public or quasi-public nature. Any such permit may be revoked by the Council at any time.

B. 1. If the limitations of Subsection 12.10.020(A) above are met, along with other applicable requirements of City ordinances or regulations, parties in lawful possession of property in the B-1 Central Business District may utilize a portion of the abutting City sidewalk located on Main Street right-of-way for display of merchandise for sale.

2. Any person utilizing the sidewalk for these purposes shall maintain the sidewalk and premises in good and safe condition and shall preserve a minimum of nine feet of sidewalk adjacent to the curb to be clear of merchandise and obstructions.

3. The City Council may revoke or suspend the rights granted herein as it deems appropriate in its sole discretion. No vested right to the use of City sidewalk shall be obtained.

4. There is hereby created a "right of action" against the owners of property abutting City sidewalks which have businesses thereon which make any utilization of the sidewalk pursuant to this Section, on account of their failure to remove snow, ice, debris or obstructions from abutting sidewalks, to maintain abutting sidewalks in a safe condition, or to correct any dangerous condition of such abutting sidewalks. The owners of the abutting property shall be civilly liable for the violation of any provisions of this Section by anyone injured as a result thereby and shall be civilly liable to hold harmless, defend and indemnify the City, its officers and employees on account of any claim made or adjudged against the City, its officers or employees on account of their failure to comply with the provisions of this Section. (Ord. 3, §6(part), 1987; Ord. 15, §1, 1998)

Chapter 12.16

TREE CARE AND MAINTENANCE

Sections:

12.16.040 Permit to trim City-owned trees.

A. No tree on City-owned property may be removed, trimmed or treated by anyone other than City employees or agents unless a permit has been issued by the City approving the removal, treatment or trimming.

B. Permits may be issued only to a public utility, the owner of abutting property, or to a qualified tree trimmer on behalf of the owner of abutting property. No fee for the permit shall be charged.

C. No permit shall be issued to anyone unless all persons who will do the trimming, treatment or removal have reviewed the City's tree care specifications, agreed to comply with them, and agreed to defend, indemnify and hold the City harmless for any damages occurring to their own person or property, or to other persons or property.

D. The City reserves the right to refuse to issue a permit for any reason as appropriate in its sole discretion. Any person who has violated any provision of this Chapter or has not complied with the City tree care specifications may not receive a permit to trim, treat or removed City-owned trees for at least two years.

E. Applications for permits shall be submitted on forms supplied by the City.

F. Permits may be revoked if any violations of this Chapter, or regulations issued pursuant to it, occur. (Ord. 5, §4, 1984; Ord. 7, 1991)

12.16.070 City tree Care. The City shall have the right to plant, prune, maintain, remove, treat or trim all trees, bushes or shrubs and other plantings located upon all City-owned property, including street rights-of-way, as it deems prudent or necessary in its sole discretion. (Ord. 5, §8(B), 1984; Ord. 7, 1991)

12.16.080 Street tree plantings.

A. No person may plant any tree upon City-owned property, including street rights-of-way, without obtaining a permit for such planting from the City.

B. The permit shall be issued without charge after review and approval by the City of the type of tree, its spacing, and proposed location. The planting shall be made as approved.

C. Council may provide for a cost sharing program in the City's budget. (Ord. 5, §8(C), 1984; Ord. 7, 1991)

12.16.090 City tree care and specifications.

A. The City Manager is hereby directed to adopt tree care specifications and any other regulations necessary to implement the provisions of this Chapter.

B. It shall be unlawful for any person to top any City-owned tree by severe cutting back of the limbs or stubs larger than 3" in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree, unless the City specifically authorizes such topping due to special circumstances such as storm damage or obstruction of utility lines which make normal trimming impractical.

C. It shall be unlawful for any person to remove, trim or treat any City-owned tree without compliance with City tree care specifications. (Ord. 5, §8(D), 1984; Ord. 7, 1991)

12.16.100 Tree Board.

A. There is created and established a City Tree Board which shall consist of seven members who shall be appointed by the City Council.

B. The Tree Board shall be responsible for providing technical assistance, advice and planning support. The Tree Board shall choose its own officers. A majority of the members shall be a quorum for the transaction of business. (Ord. 5, §5, 1984; Ord. 7, 1991)

12.16.110 Nuisances.

A. The following are declared to be a nuisance:

1. Any tree, tree root, shrub or bush which obstructs the property view from vehicles or by pedestrians of traffic control devices or signs, or unreasonably obstructs the view from vehicles or by pedestrians of traffic at intersections, or which obstructs vehicular or pedestrian traffic;

2. Any tree, shrub or bush upon public or private property with dead, diseased or decaying limbs, which creates a safety hazard to persons or property;

3. Trees which harbor any destructive or communicable disease or other pestilence which endangers the

well-being of other trees in the City or which are capable of contributing to the spread of disease or insect infestation.

B. The City Manager or his designee is authorized to enter on private property to inspect trees, shrubs and plantings, and if necessary, may obtain an inspection warrant from Municipal Court.

C. It shall be the responsibility of the owner or party in lawful possession of any tree, shrub, or bush, or the owner or party in lawful possession of property abutting trees, shrubs or bushes in the street rights-of-way which are a nuisance, to remove, trim or treat such tree, shrub or bush to eliminate the nuisance. If such person fails to appropriately care for such tree, bush or shrub, the City may abate the nuisance caused by the tree, bush or shrub in accordance with the provisions of Section 8.24.020 of the Delta City Code. (Ord. 5, §7, 1984; Ord. 7, 1991)

Chapter 12.20

CABLE TELEVISION SYSTEM PERMITS

Sections:

12.20.010 General provisions.

A. "City" as used in this Chapter shall mean the City of Delta, Colorado, the Delta City Council, City Manager or any other officer, employee, or body thereof authorized to act on behalf of the City for purposes of the administration, enforcement or implementation of this Chapter.

B. "Company" as used in this Chapter shall mean any person or legal entity granted a cable television permit pursuant to this Chapter. (Ord. 10, §1, 1993)

12.20.020 Permit required.

A. It shall be unlawful for any person to use any City owned street, alley, right-of-way, easement, power pole or other property owned by the City for purposes of the operation of a cable television (CATV) system or the installation or location of CATV lines, poles, cables or other facilities without a CATV system permit granted in accordance with the provisions of this Chapter.

B. Any CATV system permit issued hereunder shall be nonexclusive and other CATV system permits may be issued by the City.

C. No CATV system permit shall be granted until the City Council determines that:

1. The applicant, its proposed system and operation are financially viable.

2. The applicant has the financial, legal and technical ability and necessary experience to successfully operate a CATV system and to provide the services, facilities and equipment as set forth in the applicant's proposal.

3. The applicant and its principals are of good moral character.

4. The applicant is proposing adequate service to promote public convenience and necessity, and the proposal is reasonable to meet future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

5. All requirements of this Chapter and other applicable requirements of City, federal and state law have been and will be met.

6. For renewals, the applicant has substantially complied with the material terms of the existing franchise and applicable law; and the quality of operator's service, including signal quality, response to consumer complaints and billing practices, but without regard to the mix, quality or level of cable services or other services provided over the system, has been reasonable in light of community needs.

D. Upon receipt of an application for a permit or renewal thereof, the City Council may conduct such investigation and hold such hearings as it deems necessary and proper to determine if the criteria of this Section have been met. Reasonable notice of any hearings scheduled shall be given to the applicant. Any procedures required by applicable state or federal law shall be followed.

E. No CATV system permit may be assigned, except that an assignment occurring as a result of a corporate merger or restructuring, or to an affiliate, or by reason of sale may be allowed with the written consent of the City Council. Such consent shall be granted only upon a showing satisfactory to the Council that the criteria of subsection 12.20.020(C) will be met by the assignee. If the permit or the cable TV system is transferred by bankruptcy, receivership, assignment for the benefit of creditors, foreclosure, or by operation of law, this permit shall terminate one hundred twenty (120) days thereafter unless an extension is granted by the City Council to allow time for application for a new permit to be filed. Nothing in the

foregoing is intended to forbid or require the City's consent for the pledge of the permit or Company's property to secure an indebtedness whether by mortgage, transfer in trust, or other hypothecation. (Ord. 10, §1, 1993)

12.20.030 Terms of permit.

A. Any permit granted pursuant to this Chapter shall be valid for a term of ten (10) years unless terminated prior to ten (10) years in accordance with other provisions of this Chapter. The ten (10) year term may commence upon approval of the permit by the City Council or at the end of the current permit as determined by the City Council.

B. The permit shall be issued subject to conditions stated thereon to include, at a minimum, significant features of the applicant's proposal, including proposed service, customer service, and other significant elements. (Ord. 10, §1, 1993)

12.20.040 Application for new CATV permit.

A. Applications for a new permit (not including renewals) shall be made on forms provided by the City. The burden shall be on the applicant to prove that it meets the criteria for issuance of the permit as specified in Section 12.20.020 above. The applicant may submit such information as it desires to meet its burden, but at a minimum the application form shall be fully completed and accompanied by the following:

1. An application fee in the amount of two thousand dollars ($2,000).

2. Complete financial data of the applicant, including two (2) years audited financial statements and income tax returns.

3. A complete description of the applicant's organizational structure, including the names and addresses of the applicant's officers, principal shareholders or owners and other principals of the applicant. The same information with respect to any parent subsidiaries or interlocking companies or entities shall be provided.

4. The general description of all aspects of the proposed operation, including services to be provided, programming, office hours and location, etc.

5. The proposed rates along with a guarantee that these rates will not be increased for a period of at least two (2) years following original initiation of service.

6. The complete plans for the construction of the proposed system and proposed system map unless the application is for a change of ownership of an existing system, in which event the existing system maps should be submitted.

7. A ten (10) year projected operations pro forma.

8. A list of other cable television franchises or permits held by the applicant, its parent, subsidiaries, or interlocking companies.

9. Information sufficient to show compliance with applicable requirements of federal or state law.

B. The City reserves the right to require any additional information necessary for its determination of whether or not the applicable criteria for granting the permit are met.

C. Accompanying the application shall be a notarized certificate of the applicant stating that it accepts the authority of the Council to grant the permit, acknowledges the validity of all requirements of this Chapter, and certifies that the applicant will comply with all provisions of this Chapter. (Ord. 10, §1, 1993)

12.20.050 Construction bond.

A. Within thirty (30) days after approval of the permit for a new system, the company shall file with the City a corporate surety bond in a form acceptable to the City Attorney in the amount of one hundred thousand dollars ($100,000) to guarantee the timely construction and full activation of the proposed cable system within three (3) years of the date the Council grants the permit.

B. The bond shall provide that the City may recover against it, jointly and severably from the principal and surety, any and all damages, loss or costs suffered by the City resulting from the failure of the company to fully install and activate the cable system in accordance with the provisions of this Chapter.

C. A bond is not required for a permit granted as a renewal or transfer of ownership of an existing activated CATV system. (Ord. 10, §1, 1993)

12.20.060 Renewal of existing permit.

A. Applications for renewal of an existing CATV system permit shall be submitted on forms provided by the City and at a minimum accompanied by the following:

1. A renewal application fee in the amount of two hundred dollars ($200.00).

2. The company's existing rate schedule if not previously filed with the City.

3. Accompanying the application shall be a notarized certificate of the applicant stating that it accepts the authority of the Council to grant the permit, acknowledges the validity of all requirements of this Chapter, and certifies that the applicant will comply with all provisions of this Chapter subject to changes in applicable law.

4. Information sufficient to show applicable requirements of federal and state law have been met.

5. A complete description of proposed services, facilities, customer service facilities.

B. The City may require any other additional information it deems reasonably necessary to determine whether or not the applicant for renewal meets the criteria set out in Section 12.20.020 above and applicable law. (Ord. 10, §1, 1993)

12.20.070 Permit revoked.

A. Any permit issued under the Chapter may be revoked by the City Council if it determines that the company has substantially failed to comply with any material provision of this Chapter or the permit, or is in violation of any applicable provision of any federal, state or local law, and the company fails to remedy the situation as provided in this Section.

B. The City shall provide the company with at least thirty (30) days notice of the hearing on the alleged failure or violation during which time the company may remedy the situation. If the Council determines following the hearing that the grounds specified in subsection (A) above exist, it shall set a reasonable time period in which the company may remedy the situation. If the company fails to remedy the situation in such period, the Council may revoke the permit or take such other action as it deems necessary. (Ord. 10, §1, 1993)

12.20.080 Acquisition of the system by the City or removal.

A. City to Purchase System:

1. If the permit is revoked or renewal is denied by the City Council, the City may acquire the system for its fair market value as a going concern with no value allocated to the franchise itself.

2. The City shall deliver written notice to the company at its Delta office of its intent to purchase the system. Within ten (10) days after delivery of the notice, the company and the City shall each appoint an arbitrator who shall be qualified and have experience with appraisals of CATV systems. These arbitrators shall within fifteen (15) days thereafter appoint a third arbitrator. The arbitrators shall then determine fair market value as a going concern of the property to be acquired and make a report to the City and the company of their determination within sixty (60) days of the date of the notice of intent to purchase.

3. The City shall have sixty (60) days after receiving the report on the value to make a final determination whether or not to purchase the system. If the City elects to

purchase the system it shall specify the closing date, which shall be within 180 days thereafter, at which time the payment determined in accordance with this Section shall be made to the company and the system transferred to the City. In the time prior to closing, the company shall continue to operate the system and maintain it in good working order.

4. If the City elects not to purchase the system, any permit still in effect shall remain in effect.

5. The expenses of the third arbitrator and common expenses of the three (3) arbitrators shall be shared equally by the City and the company. The expenses of the arbitrator appointed by each shall be paid by the City and the company respectively.

6. If the company unreasonably fails or refuses to appoint an arbitrator or otherwise comply with this Section, the City may seek a court order enforcing compliance with this Section.

B. The City shall not be liable for severance damages on account of portions of the company's system located outside the City limits which will be severed because of the purchase by the City; however, the City will, upon request of the company, purchase such severed portions of the system located outside the City on the same terms as it may purchase the system within the City.

C. In the event of termination of a permit without renewal or revocation of the permit, if the City does not elect to acquire the system in accordance with the procedures outlined in subsection (A) above, the City may require the company to remove all of its cables, lines and facilities from City streets, alleys and easements within a period of six (6) months, repairing and restoring any damage caused thereby. The company may also sell the system to a third party and the time to remove the system shall be tolled while a new permit application is pending. If a permit is granted to a new owner, the company property can be left in place for the new owner. If the company fails to remove such components within that period, they shall become the property of the City. (Ord. 10, §1, 1993)

12.20.090 Use of streets, alleys and easements.

A. Any permit issued under this Chapter gives the company the right to use City owned streets and alleys, and those easements owned by the City which, by the terms of the easement, may be used for cable television facilities. Such use shall allow the installation and maintenance of wire, conduits, cables, poles and other appurtenant facilities used in the distribution and transmission of cable television. Such use shall be subject to the conditions of this Section. Nothing

herein shall limit the City's rights to vacate, sell or encumber any City owned property.

B. The location of the lines and other facilities shall be designed to minimize interference with other uses of the City streets, alleys and easements. The company shall use the poles of the telephone company or power company or City power poles whenever possible for its lines subject to the requirements of this Section for undergrounding. The company shall not erect poles of its own unless power or telephone poles are unavailable and the City determines that undergrounding is technically infeasible or economically too costly.

C. The company shall design, construct and maintain all its facilities in accordance with good engineering and safety practices.

D. The company shall submit to the City prior to construction, plans showing the location of all proposed lines to be installed in City streets, alleys or easements. No facilities or lines may be installed therein until the location has been approved by the City.

E. The City may require that any lines or other facilities be relocated, removed, or temporarily raised or relocated whenever necessary for the use, operation, maintenance, construction of City streets, alleys and easements or other City facilities. The cost of removal or relocation shall be borne by the company.

F. No excavation may be made in any City street, alley or easement without obtaining a permit from the City in compliance with the provisions of the City's Excavation Permit Ordinance. The company, at its expense, shall repair any damages or disturbance to any public streets, alleys or easements, or pavement, sidewalk or improvement thereon caused by the company's operations.

G. The company shall furnish copies of its "as built" strand map and keep an updated copy on file with the City.

H. All cables and lines shall be constructed underground when required by City subdivision regulations or when located in areas where neither existing power or telephone poles are available for use.

I. The company shall convert any of its overhead lines to underground lines upon the request of any person willing to pay for the cost of such conversion, or if the costs are paid in accordance with provisions of C.R.S. 29-8-101 et. seq., the Colorado Underground Conversion of Utilities Act.

J. In the event that an overhead cable route is eliminated because of inability to continue the use of the poles of the City, the telephone company or the power company, the company shall underground its lines and facilities if the other

utility is undergrounding its lines and facilities. If such is not the case, then the company may install its own overhead pole lines if the City determines that undergrounding is technically infeasible or too expensive.

K. Use of the City's power poles by the company shall be allowed only pursuant to a separate agreement.

L. Company tree trimming shall comply with the City tree ordinance and tree care specifications. (Ord. 10, §1, 1993)

12.20.100 Rates.

A. Rates charged by the company shall be non-discriminatory and shall allow a fair return on investment taking into account appropriate costs to the extent consistent with Federal rules and regulations.

B. The City shall have the right to regulate rates except to the extent superseded by federal or state law as in effect from time to time.

C. No rate subject to regulation by the City shall be put into effect unless the proposed rates are filed with the City sixty (60) days in advance of the proposed effective date. The City Council shall review the rates and may set a formal hearing to consider them. Following the hearing, Council shall enter an appropriate written order. No rate shall go into effect until authorized by written decision of the Council, which shall be issued within one hundred twenty (120) days from the original notice unless otherwise agreed by the company. (Ord. 10, §1, 1993)

12.20.110 Permit fee.

A. In consideration of the rights and privileges granted under a permit, the company shall pay to the City an amount equal to three percent (3%) of its gross receipts from its CATV operations within the City. Such gross receipts shall not include sales taxes collected on behalf of the City or State but shall include all service revenue and standard collection charges from such operations within the City.

B. Payments shall be made quarterly to the City. Payments are due within 45 days after each three (3) months quarter of the calendar year, with the first payment for each year due on May 15. This permit fee is in addition to any and all taxes, fees or charges of general applicability imposed by the City or other governmental entity. (Ord. 10, §1, 1993)

12.20.120 Insurance and liability.

A. The company shall fully indemnify, defend and hold harmless the City and its officers, boards, commissions and employees against any and all claims, suits, actions,

liabilities, and judgments for damages, including but not limited to expenses for reasonable legal fees arising out of or through the acts or omissions of the company, its officers or employees, or the company's cable television operations under the CATV system permit, including claims alleging a violation of civil rights or anti-trust laws.

B. The company shall maintain throughout the term of the permit comprehensive general liability insurance listing the City as an additional insured in amounts equal to or exceeding $1,000,000 combined single limit for bodily injury, personal injury, and property damage. Certificates of the insurance shall be filed with the City for each policy containing an endorsement that it cannot be cancelled unless thirty (30) days written notice of cancellation is provided to the City. The company shall also maintain adequate fire and casualty insurance, and workmen's compensation insurance.

C. In the event the company at any time or in any manner or proceeding set up against the City any claim or proceeding challenging any provision of this Chapter or the grant of the permit pursuant to this Chapter as being invalid for any reason other than inconsistency with federal or state law or regulation pursuant thereto, the City may terminate any permit issued hereunder. (Ord. 10, §1, 1993)

12.20.130 Service area and line extensions.

A. The company shall be required to provide service to all persons within the City limits of Delta desiring service, subject to the exceptions of this Section.

B. The company shall not be required initially to serve any customers or area for which it requested authority not to serve in its initial application if the City Council as part of the application review finds that service to any such area or customer is technically infeasible or economically unjustifiable.

C. Following initial construction and activation of the system, trunk lines shall be extended at the company's expense and service made available to any person within the City limits requesting service including persons owning new construction, or annexed subsequently, if any of the following criteria are met:

1. The building for which service is requested is within one hundred feet (100') of a building which is receiving CATV service from the company.

2. Service is requested from ten (10) or more potential customers who are located in proximity to an existing trunk cable in a density greater than ten (10) customers per one thousand three hundred twenty feet (1,320') of cable required to

be extended within the public right-of-way or easement to be able to serve such potential customers.

D. Whenever any person is willing to pay the costs of extending the system to serve such person, the company shall provide him with service.

E. All cable and appurtenant facilities installed pursuant to this Section shall be company property. (Ord. 10, §1, 1993)

12.20.140 Minimum service and operation requirements.

A. The company shall maintain a local business office within the City open at least eight (8) hours a day, five (5) days per week. Complaints from consumers shall be responded to promptly and courteously by the company and a log listing all complaints, service requests and their disposition shall be kept by the company available for inspection by the City subject to applicable consumer privacy laws.

B. The company shall at all times comply with the regulations and laws and standards of the State of Colorado and the United States and any of their agencies.

C. Construction and the operation of the system shall comply with the City's Building and Electrical Codes and any other applicable regulations and ordinances.

D. The company shall provide a basic service tier which shall include a minimum of eleven (11) channels unless the company is unable to obtain consent to retransmit the signal of a broadcasting station on commercially reasonable terms. In such event, the company shall make best effort to replace such programming with alternate programming.

E. The system shall be designed to provide subscribers with a uniform high quality of reception throughout the City and shall be operated continuously. The system shall have a minimum capacity of not fewer than thirty-five (35) video channels.

F. The company shall provide reasonably continuous service to all subscribers to the extent that to do so is within the company's control. In the event the company fails to operate the system for five (5) days, the City shall have the right to operate the system until such time as a new operator is approved or the City acquires the system and shall be reimbursed for any costs or expenses incurred as a result of the company's failure to operate the system, unless such failure is on account of technical impossibility, acts of God, disaster, war or other such reasons beyond the company's control. Financial problems, misfeasance or malfeasance of the company or its employees shall be no excuse for failure to operate.

G. The company shall, to the extent technically and economically feasible, take advantage of new technical

developments in the field of transmission of television or radio signals which would afford the company the opportunity to be more efficient and to provide better service, and shall, as far as reasonably practical and economical, maintain the current state of the art with regard to cable television systems.

H. The company shall provide service to customers who have installed their own cable television wiring as long as such wiring and facilities are installed in compliance with the specifications and standards of the company.

I. The company shall temporarily move or relocate any of its lines, cables or other facilities when necessary for construction, moving a building or otherwise, if the expense of such operation will be paid by the person requesting it in advance.

J. The company shall have available lock out devices for customers who desire them. (Ord. 10, §1, 1993)

12.20.150 Education and government access.

A. The City shall be authorized to make emergency use of the company's system and the company shall install a capability for emergency messages to be transmitted on all channels simultaneously. The City shall hold the company, its employees and officers harmless from any claims arising out of the emergency use of its facilities by the City, including but not limited to reasonable attorneys fees and costs.

B. The company shall provide two (2) educational and governmental access channels for use by the City. (Ord. 10, §1, 1993)

12.20.160 Financial reports and access to records.

A. The City may inspect and copy at all reasonable times business and financial records of the company appropriate for regulating rates or auditing compliance with this Chapter or any permit issued hereunder or any information filed with any federal or state agency which is available for public inspection.

B. The company, within ninety (90) days following request from the City, shall submit any written report which the City might reasonably request concerning its compliance with the provisions hereof.

C. The company shall keep on file with the City its current rates and service policies.

D. The City shall restrict public access to any documents provided to the City and claimed to be confidential by the company to the extent allowed by law. (Ord. 10, §1, 1993)

12.20.170 Reservation of rights. The City reserves the right to adopt additional regulations and ordinances governing the operation of CATV systems in accordance with the lawful exercise of its police power, and to amend this Chapter as appropriate based upon changes required by federal or state law. Other changes to this Chapter shall not apply to permits existing at the time of adoption unless otherwise agreed by the permittee. Upon renewal all prior amendments shall apply. (Ord. 10, §1, 1993)

12.20.180 Notices. Any notices required to be given to the City shall be delivered to the City Manager's office at City Hall. Notices to the company may be delivered to the local business office required to be kept by the company and mailed to:

TCI Cablevision of Colorado, Inc.
P.O. Box 5630
Denver, CO 80217-5630
Attn: Legal Department

(Ord. 10, §1, 1993)

12.20.190 Free service. The company shall provide free of charge one cable television outlet and basic and expanded basic service channels to City Hall, Heddles Recreation Center, each public school located within the City, each public library within the City, and the Delta Fire District's fire house. This shall not require the company to provide channels which are premium pay channels and the extension of service shall be subject to the limits specified in Section 12.20.130. (Ord. 10, §1, 1993)

12.20.200 Penalty.

A. It shall be unlawful to violate any provision of this Chapter. Any person convicted of such violation shall be subject to a fine in an amount of up to $1,000.00, as determined by the Municipal Court. Each day a violation continues shall be deemed a separate offense subject to the penalty provided for in this Section.

B. Prior to bringing an action to enforce a penalty in Municipal Court against the company or its officers or employees, the City shall give written notice of the violation to the company. If the company fails to correct the violation within fifteen (15) days of delivery of the notice to the local company office, the City may bring an action in the Municipal Court under this Section. (Ord. 10, §1, 1993; Ord. 18, §2, 1997)

Title 13

PUBLIC UTILITIES

Chapters:

Chapter 13.04

ELECTRIC, WATER AND SEWER SYSTEMS

Sections:

13.04.010 Applicability.

A. All users of City electric, water or sewer services shall be subject to the terms and conditions as set out in this

Chapter and shall be subject to all applicable regulations of the City Code and other ordinances, resolutions and regulations of the City, as they now exist or as they may be amended in the future.

B. The owner, lessee, party in possession and party actually using electric, water or sewer service, of any property served by City electric, water or sewer service, shall be jointly and severally liable for all fees, charges and penalties imposed by this Chapter and for compliance with other requirements of this Chapter, notwithstanding any agreement among themselves. (Ord. 23, §1(part), 1984)

13.04.020 Application for service.

A. Application for City electric, water or sewer service shall be made upon forms provided by the City, which forms shall require information as may be necessary for the proper billing and management of the electric, water or sewer system.

B. The City may grant permission for the use of electric, water or sewer service only upon receipt of the proper application and payment of all applicable fees, charges and deposits.

C. All applications for electric service shall be accompanied by a deposit in the amount of $75. Provided, however, no deposit shall be required of an applicant who has previously been a City utility customer and has paid all charges billed without receiving a "Shut Off" Notice for the period of his latest 18 months of service within the last two (2) years. The deposit shall be returned at the termination of service, deducting all charges due the City, or after 6 months of continuous service during which the customer has paid each bill in full by each due date specified. (Ord. 23, §1(part), 1984; Ord. 20, §1, 1998)

13.04.030 Conditions of and application for connection.

A. Applications for connection to the City electric, water or sewer system shall be made upon forms provided by the City which forms shall require information as may be necessary for the proper management and operation of the systems. The application shall be accompanied by the system improvement and other fees imposed by this Chapter, a plan of the property to be served, and the evidence of title to, and legal description of, the property to be served.

B. If the property to be served is outside the City limits, the application shall be accompanied by:

1. A title memorandum furnished by a reputable title company, a copy of the applicant's deed or a copy of a title insurance policy showing the title status of the property, the owner of record, and the legal description of the property to be served; and

2. An agreement executed by the applicant and the owner which contains the following conditions and other conditions consistent with this Chapter:

a) All service lines between the City lines or mains and the building served shall be constructed and maintained in compliance with all City codes, standards and specifications.

b) The owner and applicant agree to annex, to execute a petition for annexation of the property served, and to vote for annexation at any annexation election to the City, upon the City's request, at any time that such property is eligible for annexation. They shall irrevocably appoint the City Clerk as their attorney-in-fact with respect to annexation proceedings. This agreement shall be binding upon and shall run with the land for which service is provided. The City may require immediate annexation at the applicant's expense.

c) The owner and applicant agree to comply with all provisions of this Chapter, as amended from time to time.

C. Whenever a City sewer main is installed within 400 feet of the premises upon which a structure requiring plumbing is located, the occupant or owner will, upon request of the City, connect to such sewer line and pay all system improvement and other fees, therefor, in accordance with City ordinances and regulations, as they may be amended from time to time.

D. Applications for connection to the City electric, water or sewer system shall be accompanied by properly executed documents granting the City all easements reasonably necessary for electric, water or sewer lines and facilities.

E. Applications for all connections must be reviewed and approved by the City Manager. If any City main or line extension is required, the connection shall not be approved unless the terms of the extension have been approved by the City. The application shall be denied if capacity is not available for utility related reasons.

F. The City Council may declare a moratorium on new connections at any time due to limitations on system capacity or other circumstances which require such action in their opinion.

G. Separate buildings shall require separate taps to a City water main and a City sewer main, or in the case of service provided through a water or sewer company, district or privately owned main, separate taps to the company, district or privately owned main. Provided, however, a garage, regularly used to house vehicles accessory only to a residence within the City, may have plumbing and plumbing fixtures served off of the residence's taps, if not intended to change the existing use. Separate system improvement and other fees shall be due for each tap onto a City, company, district or privately owned main, regardless of building ownership. Separate dwelling units in a travel home park or mobile home park shall require separate sewer taps to a City owned sewer lateral or main. The purchaser may purchase more than one tap to serve any building or dwelling unit. New summer irrigation water taps shall not be authorized.

H. No application for the connection of any private line, private electric, water or sewer company, or feeder district shall be approved. Provided, however, this shall not preclude approving connection for water service to a mobile home park, travel home park, apartment building or condominium building, through a master water meter. Existing water companies or other private lines served by the City shall submit an application for connection for any additional customers, dwelling units, buildings, or taps to be serviced by such companies accompanied by fees as set out in Section 13.04.040, on the same basis as if the connection was to be directly to a City main.

I. Taps may be used to serve only that property for which the tap was purchased and approved to serve.

J. All existing authorized summer taps shall be used solely for irrigation purposes. Any other use shall terminate the right to use such tap. The City shall turn such taps on and off at the customer's request. (Ord. 23, §1(part), 1984; Ord. 20, §1, 1998; Ord. 29, §1, 1999; Ord. 21, §3, 2002)

13.04.040 Water and sewer system improvement fees and tap fees.

A. General provisions applicable to water and sewer fees:

1. Fees imposed by this Section shall be due when any customer presently served by water or sewer extends his facilities or changes his use, if the expansion or change in use

necessitates a larger connection or increases the number of units, or when a new connection to the system is required except a connection solely for the purposes of repair of an existing adequately sized connection, in which case only actual costs of City material and labor will be charged. Such charges shall be paid prior to any expansion or connection or issuance of any permit therefor.

2. No connection to the City or existing private system shall be allowed which is smaller than reasonably necessary to serve the proposed use, as provided in City codes and specifications. No customer may make any changes or additions to property served which would substantially increase the amount of water used or sewage produced without obtaining an enlarged tap sufficient to accommodate such use.

3. If an existing connection is not of reasonably adequate size, a credit shall be allowed toward the fees imposed by this Chapter for an amount equivalent to the charge which would be imposed by this Chapter for a connection the same size as the one to be replaced by a new connection and taken out of service. Such credit may be applied only toward charges imposed by this Chapter. Provided, however, in all cases the applicant shall be charged at least for actual costs of material and labor expended by the City.

4. Private water or sewer systems shall be charged the charges imposed by this Chapter both for the connection of the private line to the City system and for each customer, building or dwelling unit served by such line, prior to connecting such customers. Private companies or systems shall also remit unit charges for each additional unit added to a multi-unit facility as specified in Subsections B and C below.

5. System improvement fees imposed upon property located outside the City limits shall be twice the charges specified in accordance with this Section. This shall not apply to water tapping fees.

6. If, at the time service is first initiated following connection, the amount of system improvement fees or water tapping charges has been increased by the City from what the applicant paid previously at the time he obtained the permit for connection or actually made the connection, he shall remit such additional amount at the time of initial service. Provided, however, this Subsection is not applicable to taps approved by the City before January 1, 2009.

B. Water connection fees and charges:

1. The following System Improvement Fees shall be imposed and collected prior to connection to the water system, or as otherwise required, pursuant to this Section:

a) Basic System Improvement Fee (Water):

Size of Tap	BSIF
3/4" or smaller	$ 3,000
1"	$ 5,800
1 1/2"	$12,200
2"	$21,400
3"	$48,700
4"	$86,100

b) System Improvement Fee (Water)--Unit Charges: In addition to the basic System Improvement Fee imposed by paragraph 1(a) above, multiple unit residences and dwelling facilities, including but not limited to duplexes, multiple family residences, apartments, mobile home parks, townhouses and condominiums shall be assessed an additional charge of $1,500 per unit for each unit after the first unit which is served by City water out of a single tap. Hotels, motels and travel home parks shall be charged $600 per unit for each unit after the first unit which is served by City water out of a single tap. Such charge shall be payable prior to the time any occupancy permit for such unit is issued and prior to the use of such unit.

c) No water tap larger than 2" shall be approved, except solely for a fire line, unless the City determines that adequate capacity is available to serve the use without adverse effects, or unless the applicant pays for the cost of installing necessary system capacity.

2. In addition to Water System Improvement Fees, a Water Tapping fee shall be paid as follows for City expenses incurred in tapping the main and installing pipe, meter and curb boxes, except when these facilities are provided by the developer, pursuant to the City Subdivision Regulations. Tapping fees shall be paid at the time the tap is purchased except when said tap has been purchased previously or credited through other means.

Size of Tap	Tap Fee
3/4" or less	$1,400
1"	$1,500
1 1/2"	$1,700
2"	$1,900
3"	$2,100
4"	$2,500

C. Sewer System Improvement Fees:

1. The following System Improvement Fees shall be imposed and collected prior to any connection to the sewer system:

a) Residential users, including single family residences, duplexes, townhouses, condominiums, apartments and mobile homes (within or without a mobile home park) shall pay System Improvement Fees in the amount of $5,450 per dwelling unit. Provided, however, if the owners of a duplex, mobile home park, apartment building, townhouse building, or condominium building agree to maintain the City owned lateral from the outlet of their units to the lateral's point of connection with a City owned main, they may elect to have the System Improvement Fees set out pursuant to Subsection (b) below.

b) All other users not provided for in Subsection 1(a) above shall pay the following Sewer System Improvement Fees:

i) Basic System Improvement Fee (Sewer):

Size of Water Tap (Other than a fire line tap)	BSIF
3/4" or less	$ 5,450
1"	$ 9,850
1 1/2"	$ 21,700
2"	$ 38,650
3"	$ 86,700
4"	$154,000
6"	$346,700
8"	$617,400

ii) System Improvement Fee (Sewer)--Unit Charges: In addition to the Basic System Improvement Fee imposed by paragraph 1(b)(i) above, hotels, motels and travel home parks shall be assessed an additional charge of $1,100 each unit served after the first unit served by a single tap. Those duplexes, apartments, mobile home parks, townhouses and condominiums and other multiunit residences qualified for rates under this paragraph 1(b) shall be assessed an additional charge of $2,600 for each unit after the first unit served by a single tap. Such charge shall be payable prior to the time any occupancy permit for such unit is issued and prior to the use of such unit.

2. No sewer tap larger than 6 inches shall be approved unless the City determines that adequate capacity is available to serve the proposed use without adverse effects, or unless the applicant pays for the cost of installing necessary

system capacity. (Ord. 23, §1(part), 1984; Ord. 1, §1, 1998; Ord. 20, §1 & §3, 1998; Ord. 16, §1, 2001; Ord. 34, §1, 2002; Ord. 9, §20, 2004; Ord. 21 §1, 2004; Ord. 8, §4, 2006; Ord. §12, 2008)

13.04.050 Installation and maintenance responsibilities.

A. Water system - The City shall make and maintain all connections to the City water system, shall provide and maintain 3/4-inch meters with related pits and yokes, shall install and maintain water service lines from the City main to the customer's curb box, and shall install and maintain the curb box, except as otherwise provided by contract for existing private companies, or pursuant to City Subdivision Regulations. The owner shall purchase from the City all water meters larger than 3/4-inch, along with a yoke and a pit and related materials, including asphalt replacement, if required, at the time the tap is purchased. The City will install the tap, all meters and service line from the main to the meter. The owner shall install and maintain all other water lines and facilities to serve owner's property. The location of all meters must be approved by the City prior to installation. No occupancy permit shall be issued by the City for any building requiring water service until a meter has been installed, inspected and approved in accordance with these provisions. The City will own and maintain all water meters after proper installation. All meters shall be obtained through the City.

B. Sewer system - The customer shall be responsible for the connection, installation and maintenance of all sewer lines and facilities, including the entire length of sewer lateral between the City owned main and the customer's premises and for plumbing facilities serving his property.

C. Electric system

1. The City shall install, own and maintain all electric meters, lines, facilities, and service connections up to the customer's meter box. All costs the City incurs in extending service to the customer's building or facility shall be paid to the City by the customer, except that the City shall bear the first $300 of costs to extend service to permanent individually owned residential dwelling units. The City's estimated costs of extending service shall be paid by the customer in advance, unless otherwise provided by contract.

2. Subdividers shall, at their cost, establish the permanent "rough grade" prior to installation of underground facilities.

3. The City shall convert overhead facilities to underground facilities where practical at the customer's request and expense.

4. All customers with motors 20 HP or greater shall install compensating starters and obtain a permit therefor prior to operation, unless other adequate protection is demonstrated to the City's satisfaction.

D. If any portion of the water, electric, or sewer lines or other facilities for which the customer is responsible is in need of repair and the customer fails to make such repairs following notice from the City, the City may either terminate water or electrical service or make repairs and bill them to the customer. Such charges shall become a lien upon the property and may be collected as other charges imposed by this Chapter.

E. Separate Non-Residential Irrigation Meters. The City will install, own and maintain all meters and related back-flow prevention devices requested by a customer to utilize the landscape irrigation rate of subsection 13.04.110(G). The customer shall reimburse the City for the cost of such installation and shall be responsible for the installation and ownership of all landscape irrigation facilities downstream of the back-flow prevention devices. (Ord. 23, §1(part), 1984; Ord. 11, §2, 1994; Ord. 1, §2, 1998; Ord. 16, §1, 2001)

13.04.060 Electric, water and sewer use charges--General provisions.

A. Charges for water, sewer and electric service shall be payable, assessed and billed at periodic intervals specified by the City Council.

B. Monthly water, electric and sewer charges shall commence when service is first utilized.

C. Sewer and electric charges may be billed with the water bills or otherwise, as determined by the City Council.

D. All bills shall specify a due date. Bills not paid by the due date shall be subject to a $5.00 late payment penalty.

E. All charges and fees imposed by this Chapter shall become a lien on the property served as of the date they are billed or due. (Ord. 23, §1(part), 1984; (Ord. 5, §1, 2001)

13.04.070 Remedies for nonpayment. In addition to any other remedies which the City may have, the City may take the

following action upon failure to pay any charges or fees by the date specified as due upon the bill, or when they are otherwise due:

A. The City may foreclose the lien imposed by this Chapter in accordance with law.

B. The City may maintain an action for the amount of charges due in a court of competent jurisdiction including interest as allowed by law.

C. The City may certify the amount of any charge due to the County Treasurer to become an assessment upon such property served to be collected as taxes upon such property are collected.

D. It shall be unlawful to fail to pay the charges imposed by this Chapter.

E. The City may shut off water or electricity to any premises for which the bill is not paid in accordance with the procedures set forth in Section 13.04.140 of this Chapter. (Ord. 23, §1(part), 1984)

13.04.080 Specifications and standards. The materials used and installation of all components of the City electric, water and sewer system, service lines and plumbing systems connected thereto and served thereby shall be in accordance with standards, regulations, and specifications approved by the City, and in accordance with all City building, electrical and plumbing regulations and other applicable regulations. Such City standards, specifications and regulations may include but not be limited to the installation, location, and type of material of water and sewer mains, electric lines, service lines, curb boxes, valves, corporation stops, meters, meter pits, meter yokes, and other fixtures and facilities. All such facilities shall also comply with all applicable State and Federal regulations and The National Electric Safety Code. (Ord. 23, §1(part), 1984)

13.04.090 Electric, water and sewer extensions.

A. No water or sewer main, or electrical lines or facilities of the City may be extended without the approval of the City.

B. The City may, at its own expense, extend its water or sewer mains and electric lines as deemed feasible or necessary. The City may provide for such extensions in accordance with its

Subdivision Regulations or by contract with any person desiring such extensions or by improvement district. Any such contract shall be on terms approved by the City and may provide for the size of the mains or lines to be extended, the apportionment of the costs of the extensions, reimbursement provisions for subsequent taps onto such extension, or such other provisions as the City Council deems in the public interest.

C. All such mains, lines and facilities connected to the City system shall be conveyed and dedicated to the City, and the appurtenance easements shall be conveyed to the City, free and clear of all liens and encumbrances. (Ord. 23, §1(part), 1984)

13.04.100 Right of entry.

A. Whenever necessary to make an inspection or investigation to perform any duty, or to enforce any of the provisions of this Chapter, any authorized City representative may enter upon any building or premises served by City electric, water or sewer at any reasonable time for such purposes. If the building is occupied, he shall present proper credentials and request entry.
If such building is unoccupied, he shall make reasonable efforts to locate the owners or persons in possession of the premises and request entry. If entry is refused, he shall have recourse to all remedies provided by law to secure entry, including issuance of an inspection warrant by the Municipal Court.

B. The right of entry shall apply but not be limited to the following functions: To determine the location and conditions of all hydrants, pipes, fixtures, electrical facilities and meters, to read meters, to make repairs, to perform dye and smoke tests, and to investigate violations of this Chapter. (Ord. 23, §1(part), 1984)

13.04.110 Monthly water rates.

A. Single family homes, parsonages, duplexes, apartments, condominiums, rooming houses, mobile home parks and other multiple unit dwelling facilities providing permanent residences shall be subject to the following monthly rates for each meter serving the customer. Provided, however, use through an authorized summer irrigation tap shall be combined with use through the household meter for purposes of the application of the following rates:

Monthly Minimum		
Inside City*	$24.00	$2.50/1000 gallons

Outside City $29.00 $3.10/1000 gallons
*Includes outside City with current Annexation Agreement and Power-of-Attorney in effect.

B. Existing authorized summer irrigation taps shall pay a demand charge of $15.00 per month in addition to the charges provided in Subsection (A) above for each month the tap is in use.

C. Existing customers for which the City has determined that the installation of a meter is physically unfeasible shall pay $24.00 per commercial unit per month.

D. The rates for water sold at the City dispenser shall be $4.00 per 1,000 gallons as set by the City Council from time to time.

E. All other customers, including churches and apartments who so elect, shall be charged, unless otherwise provided by an existing contract, at the following monthly rates:

Meter Size	Minimum Monthly Charge	Authorized Monthly Use for Minimum Charge * (Gallons)	Charge for Use Over the Minimum Charge * (Gallons)
3/4” or less	$ 24.00	4,000	$2.50 per 1000 gals
1"	40.00	10,000	$2.30 per 1000 gals
1¼"	55.00	15,000	$2.30 per 1000 gals
1½"	81.00	25,000	$2.30 per 1000 gals
2"	127.00	40,000	$2.30 per 1000 gals
3"	253.00	80,000	$2.30 per 1000 gals
4"	363.00	100,000	$2.30 per 1000 gals
6"	664.00	150,000	$2.30 per 1000 gals

F. Customers with a water account subject to the rates in subsection (E) who have installed a separate 2 inch or smaller meter to supply water exclusively for irrigation of lawn, trees, shrubs and other decorative landscaping plantings shall be charged a landscaping water rate for each such meter, 2 inches in size or less, as follows:

$15.00 per month demand charge, plus a charge for water used at the rate of $2.50 per thousand gallons.

G. Water used by the City shall be charged to the appropriate City fund at the rate of $1.60 per 1,000 gallons used.

H. Water used by construction meter shall be charged water rate of $2.50 per 1,000 gallons, a base rate of $15.00 and a set up fee of $50.00. (Ord. 23, §1(part), 1984; Ord. 13, §1, 1988; Ord. 11, §2, 1990; Ord. 13, 1990; Ord. 12, §2, 1992; Ord. 11, §1, 1994; Ord. 27, §1, 1994; Ord. 37, §2, 1995; Ord. 37, §1, 1996; Ord. 1, §3, 1998; Ord. 20, §1, 1998; Ord.29, §1 & 4; 1999; Ord. 34, §2, 2002; Ord. 8, §2, 2006; Ord. §12, 2008)

13.04.120 Monthly electric rates.

A. Monthly charges for residential customers (including single family homes, parsonages, duplexes, apartments, condominiums, apartment houses, rooming houses, mobile homes, and other multiple unit dwelling facilities providing permanent residences) shall be charged on the basis of the following rates for each meter serving the customer.

Monthly Base Rate	Energy Charge
$14.00	$.0895/KWH

B. Security lights and yard lights shall be charged at the rate of $10.00 per light per month. Street lighting, electricity for traffic lights, and other electricity used by the City shall be charged at the rate of $.0835/KWH. KWH for nonmetered street lights shall be determined as follows:

100 Watt High Per Sodium Light - 40 KWH per month.
250 Watt High Per Sodium Light - 115 KWH per month.
400 Watt High Per Sodium Light - 192 KWH per month.

C. All other customers, other than those provided for in Subsections A and B above, shall be charged for electric service at the following monthly rates:

1. Customers with less than 50 KVA of installed transformer capacity:

Monthly Base Rate	Energy Charge
Single phase - $23.50	$.0893/KWH
Three phase - $41.00	$.0893/KWH

2. Customers with 50 KVA or more of installed transformer capacity shall pay a $130.00 base charge, a demand charge, and an energy charge. The monthly demand charge shall be equal to $10.61 x of the customer's test year peak demand. The customer's energy charge shall be $.0575/KWH. Provided, however, those customers whose meter is on the line side of the transformer shall receive a 2% discount on the energy charge.

3. Wholesale customers shall be charged at the rate of $.0835/KWH. (Ord. 23, §1(part), 1984; Ord. 4, §1, 1990; Ord. 14, 1991; Ord. 37, §2, 1996; Ord. 23, §1, 2002; Ord. 8, §3, 2006; Ord. §12, 2008. Ord. 5, §1, 2011)

13.04.130 Monthly sewer rates.

A. Charges for sewer service shall be as follows:

Type of User	Minimum Charge Per Month	Charges Based upon Water Usage over 6,000 Gal./Mo.
Permanent residential customers, including single family homes, parsonages, duplexes, apartments, condominiums, mobile home parks, trailer courts, and other individually owned units of multiple dwelling facilities and nonmetered commercial units.	$23.50/Unit	n/a
All other users	$23.50	$1.55/1,000 Gallons

B. A monthly surcharge for any users other than the residential class discharging waste water with biological oxygen demand or concentrations of suspended solids other than those of the average residential user* shall be computed in accordance with the following formula and added to the charge provided for in Subsection A:

Surcharge = (Volume) x (BOD – 1.669) x ($.44) +
(Volume) x (SS – BOD – 2.087) x (K)
K = 0 if SS is less than or equal to (BOD + 2.087)
K = $.44 if SS is greater than (BOD + 2.087)

*Average residential user SS = 2.087 pounds/1,000 gal.
= 250 mg./liter
*Average residential user BOD = 1.669 pounds/1,000 gal.
= 200 mg./liter

C. 1. If any user is discharging toxic or other pollutants in concentrations higher than that of a residential user which causes increased treatment or system costs, an additional surcharge may be imposed based upon the excess concentrations.

2. Industrial users who exceed limits in their Discharge Authorization Order may be subject to additional surcharges.

3. Any restaurant which does not have a grease trap and any service station or car wash without a sandtrap shall be subject to an additional surcharge equal to 50% of the BOD surcharge computed pursuant to Subsection B above.

D. Minimum charges for minimum periods of less than one month shall be prorated.

E. Each user shall be notified at least annually in conjunction with a regular bill of the rate and that portion of the use charges which are attributable to wastewater treatment services.

F. Each customer's BOD and SS will be assigned pursuant to City regulations by the City Manager based upon available data from the Colorado Department of Health Individual Sewage Disposal System Guidelines or the best available engineering data, except when data based upon actual composite sampling, done in accordance with minimum State Health Department sampling procedure guidelines, is available, in which event such data shall be utilized.

G. Customers served by water utilities other than the City shall provide their actual water consumption data to the City. Failure to provide such data shall be reason to terminate City sewer service.

H. Water delivered through an authorized landscape irrigation meter shall not be utilized in determining charges due under this section. (Ord. 2, §1(part), 1985; Ord. 4, §1, 1985; Ord. 11, §3, 1990; Ord. 12, §3, 1992; Ord. 43, §1, 1993; Ord. 11, §3, 1994; Ord. 4, §1, 1995; Ord. 37, §3, 1995; Ord. 37, §4, 1995; Ord. 1, §4, 1998; Ord. 29, §2, 1999; Ord. §12, 2008)

13.04.140 Shut off and resumption of electric, water, and sewer service.

A. In case any person fails or refuses to pay any charges or penalties for City water, electric or sewer service or shall

fail to comply with the provisions of this Chapter or other regulations applicable to the City electric, water or sewer service, the City may shut off the electricity or water to the premises.

B. Prior to shutting off the electricity or water, the City shall send a notice to the address of the customer concerned, as shown on City records, stating the reason for the shut off, and the date upon which service may be shut off unless the charges are paid or other specified violation is corrected. Such date shall be at least ten (10) days after the deposit of the letter giving notice of the shut off in the mail.

C. The customer shall be entitled to a hearing with a City representative for the purpose of resolving any dispute concerning the amount due or the violation specified. The notice of shut off shall so advise the customer.

D. If the customer requests a hearing, an informal hearing shall be scheduled as soon as possible by the City.

E. If the City representative, following the hearing, determines the matter adverse to the customer, service may be shut off immediately or on the date specified in the notice of shut off, whichever is later.

F. The customer may appeal any such decision to the City Council where he will be allowed a hearing, providing he makes a deposit with the City in the amount of any charges due.

G. If the City shuts off electric or water service pursuant to this Chapter, service will not be restored until all overdue charges, penalties, other applicable charges which have been billed, and a turn-off penalty charge of $27.00 ($54.00 if made at any time other than regular working hours) for each service shut off and a deposit in an amount equal to the greater of $75.00 or the customer's highest previous City utility bill, have been paid to the City.

H. Customers whose premises will be vacant may request water, sewer and electric service to be shut off. Monthly charges shall not be due during months in which service is shut off during the entire month. (Ord. 23, §1(part), 1984)

13.04.150 Restriction of water use.

A. The City Council may by resolution limit the use of City water to specific times, days and uses.

B. It shall be unlawful for any person to sell or give water away to be used on premises other than those for which service is authorized.

C. It shall be unlawful to open or close any fire hydrant, stop or curb valve, or to turn on or turn off the water service to any property without lawful authority to do so.

D. It shall be unlawful to cause or allow any pollutant to be introduced in the City water system or to cross connect it with any irrigation water system. (Ord. 23, §1(part), 1984)

13.04.160 Use of fire hydrants.

A. When it is necessary to use water temporarily at a place where the water supply is inadequate, application may be made to the City for a permit to use water from a fire hydrant. It shall be unlawful to use water from, or connect any apparatus to, a fire hydrant without first obtaining a permit.

B. Each permit shall specify the terms and conditions of use and the fire hydrant or hydrants authorized to be used. No person shall attach to the operating stem or cap of a fire hydrant any wrench or tool that is not approved by the City for use on fire hydrants. In addition to any other remedy available to the City, any wrench, connection apparatus, valve, hose, or other item attached to a fire hydrant in violation of this Chapter shall be subject to removal and confiscation by the City. (Ord. 12, §1(part), 1984)

13.04.170 Tampering with and unauthorized use of utilities and service. It shall be unlawful to tamper with, damage or destroy any City water, sewer or electric lines, mains, meters or facilities, or to utilize any City utility service without lawful authority, or to operate any City utility facilities without lawful authority. (Ord. 23, §1(part), 1984)

13.04.180 Groundwater. All groundwater from the Dawson, Denver, Arapahoe, Laramie-Fox Hills, and Dakota aquifers, and other nontributary groundwater underlying land included within the corporate limits of the City of Delta as of January 1, 1985, is hereby incorporated in the actual municipal service plan of the City, pursuant to and in accordance with the provisions and exceptions of C.R.S. 37-90-137. (Ord. 11, 1985)

13.04.190 Special provisions for Garnet Mesa Sewer Project

A. The provisions of this Section shall supersede any conflicting provisions in this Chapter with respect to

connections to the sewer mains constructed as part of the 1995/1996 Garnet Mesa Sewer Extension Project (Project).

B. "5th & B" and "Quakie" segments.

1. Taps purchased utilizing the "5th and B" and "Quakie" segments prior to construction of them shall be charged the inside City rate for System Improvement Fees (SIF). If the Project does not receive the full package of grants and loans, each such tap shall be billed for an additional amount to bring the total up to the outside City rate for System Improvement Fees, unless the owner of the tap has not connected to the system and decides to surrender the tap, in which event the owner shall receive a refund of amounts paid except for $500 which the City shall retain.

2. Taps purchased subsequent to construction shall be subject to standard outside City rates for SIF's.

C. "Pioneer Road" segment.

1. Taps purchased prior to construction for the Pioneer Road segment may be purchased at the inside City rate for System Improvement Fees.

2. If the full package of state and federal loan and grant funds is not obtained for the Project, persons purchasing a tap pursuant to paragraph 1 above shall have the option of voiding the tap and receiving a refund of everything but $500, or paying an additional surcharge equal to the applicable outside City System Improvement Fees to retain the tap. Taps which are voided pursuant to this paragraph shall result in the property in question being required to pay standard City System Improvement Fees as applicable in the future, plus an additional 50% surcharge for taps repurchased thereafter.

3. Property for which no tap is purchased pursuant to paragraph 1 which utilizes the Pioneer Road segment shall be subject to standard System Improvement Fees and other charges at any time in the future for connection if the Project is constructed with the full package of state and federal grant and loan financing, plus a 50% surcharge if the Project does not receive the full package of state and federal loan and grant financing.

D. General project provisions.

1. Taps purchased for Project mains prior to July 15, 1995, not covered by (B) or (C) above may be purchased at the inside City rate for System Improvement Fees. Taps purchased thereafter, but before construction of the main is completed at the tap's connection point, may be purchased for 1.5 times the inside City rate for System Improvement Fees.

2. Taps purchased thereafter shall be at standard outside City rates for SIF's.

E. Taps purchased which will utilize mains constructed by the Project, including segments referenced in (B), (C) and (D) above, which are not activated and subject to standard monthly charges shall be subject to a monthly base charge equal to one half of the applicable standard monthly minimum charge commencing after completion of construction. If such property has an existing septic system, it will not be required to connect to the sewer system until an individual sewage disposal system installation or repair permit is necessary to replace or repair the septic system.

F. For taps purchased pursuant to paragraphs (B)(1), (C)(1) and (D)(1) above, the City will make the tap and extend the service line to the edge of the street where applicable. (Ord. 23 §1, 1995; Ord. §12, 2008)

13.04.200 Construction surcharge.

A. Connections to the water system constructed pursuant to the Alsdorf Water Main Extension Project shall be subject to a surcharge of $1,250 prorated for each 3/4" connection or equivalent, until further action by City Council.

B. Connections to the water system constructed pursuant to the 2005 5th Street Water Main Extension Project shall be subject to a surcharge of $550 prorated for each ¾" connection or equivalent, until further action by City Council. Such surcharge shall be payable on the sooner or payment of a tapping fee for any tap, payment of the system investment charge for any tap, or sale of any lot in a subdivision planned to be served by such main, including Fox Hollow Subdivision Filing No. 1. (Ord. 20, §2, 1998; Ord. 20, §1, 2004)

13.04.210 Outside City services. The City may require as a condition of continuing to provide service outside the City from its water, sewer, or electric system, a contemporaneous agreement executed by the owner of the property served, agreeing to annex and appointing the Delta City Clerk irrevocably as the owner's attorney-in-fact for the purposes of executing petitions to annex. (Ord. 20, §2, 1998)

13.04.220 Additional water company requirements. Each water company served by the City shall furnish monthly to the City of Delta a list of its current customers by name and address. They'll notify the City immediately upon any changes

in the customers served or new taps. No new taps shall be authorized by any company until approved by the City with payment of applicable fees and charges. (Ord. 20, §2, 1998)

13.04.230 Special provisions for the North Delta Sewer Project.

A. The provisions of this Section shall supersede any conflicting provisions in this Chapter, with respect to connections to the sewer mains constructed as part of the 2000 North Delta Sewer Extension Project (Project). The System Improvement Fees for taps purchased on the Project by June 23, 2000, shall be at the inside City rate and may be paid in installments due on or before June 23, 2000 and December 20, 2000. Taps purchased after June 23, 2000, but before construction of the main is completed at the tap's connection point, may be purchased for 1.5 times the inside City rate for System Improvement Fees. Outside city taps purchased thereafter shall be subject to standard outside City rates for System Improvement Fees as in effect from time to time.

B. Taps purchased which will utilize mains constructed by the Project which are not activated shall be subject to a monthly base charge equal to one half of the applicable standard monthly minimum charge. If such property has an existing septic system which is operating properly, it will not be required to connect to the sewer system until an individual sewage disposal system installation or repair permit is necessary to repair or replace the septic system.

C. Taps purchased to be served by the Project's mains which are purchased before construction of the main is completed at the tap's connection point will be provided the physical tap and extension of the service line to the edge of the street, where applicable, and any necessary pump to serve an existing structure, if service is initiated within one year of completion of the project, at the cost of the Project. All such pumps and appurtenances will be installed, owned and maintained at the cost of the customer thereafter.

D. The City will deny future taps to property owners for significant new facility construction to be located in designated flood hazard areas unless there were no practical alternative. A "designated flood hazard area" would be a floodway or floodplain, so determined by FEMA or another responsible agency of Federal, State or local government involving a 500-year frequency flood hazard in the case of a Critical Action or involving a 100-year frequency flood hazard

in all other instances. A “Critical Action” constitutes any action which would create or extend the useful life of the following facilities: 1) facilities which produce, use or store highly volatile, flammable, explosive, toxic, or water reactive materials; 2) schools, hospitals, and nursing homes which are likely to contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events; 3) emergency operation centers or data storage centers which contain records or services that may become lost or inoperative during flood and storm events; and 4) multi-family housing facilities designed primarily (over 50 percent) for individuals with disabilities. This special mitigation measure will only pertain to newly issued taps within the impact area of the project to be financed by the RUS, and will not involve any other areas within the City of Delta’s overall service area. This “impact area of the project” has been determined to be that portion of the North Delta area served by RUS-funded sewer mains, lying generally north of the Gunnison River, east of 1400 Lane extended, west of 1675 Road, and south of the North Delta Canal. (Ord. 23, §1, 2000)

Chapter 13.08

PRETREATMENT PROGRAM, INDUSTRIAL USER, AND SEWAGE SYSTEM SUPPLEMENTAL REGULATIONS

Sections:

13.08.010 Approval of industrial discharges.

A. No industrial user shall discharge any new or increased contributions of pollutants or pollutants changed in nature where such contributions do no meet the applicable requirements of this Chapter or where such contributions would cause the City to violate its Discharge Permit.

B. No industrial user shall be allowed to initially connect to the City sewage system, or to discharge to the City sewage system any new pollutants, any materially increased contributions of pollutants, or any pollutants materially changed in nature, unless such changed or new discharge is approved by a Discharge Authorization Order issued by the City.

C. Applications for discharge authorization shall be submitted on forms provided by the City which may require all information necessary and convenient to characterize and evaluate the industrial user, its industrial processes, and the quantity or quality of its proposed discharge, and to administer and enforce the provisions of this Chapter.

D. The City shall review all such applications and shall approve any application only on the condition that it can and does comply with all the requirements of this Chapter. Upon approval, a Discharge Authorization Order shall be issued

to the industrial user, setting out maximum effluent limits applicable to their discharge, other conditions, and any applicable sampling, testing, monitoring and reporting requirements. Said order shall state the duration of the order, prohibit transfers, include notification and record keeping requirements, include applicable penalties, and include any compliance schedule.

E. All existing industrial users classified as either "Class I--Significant Industrial Users" or "Class II--Minor Industrial Users" shall be issued a Discharge Authorization Order after the effective date of this Chapter. Other industrial users shall be issued Discharge Authorization Orders when changes in discharge occur pursuant to Section C above, or when reclassified as a Class I or Class II Industrial User.

F. The City may periodically require any industrial user to complete and submit reports or surveys on forms provided by the City. Such forms and surveys may require any information necessary or convenient for the administration and enforcement of this Chapter.

G. The Industrial User may have a meeting with the City Manager concerning any provision in a discharge authorization order by submitting a written request to the City within five (5) days of receipt of the order. (Ord. 23, §1(part), 1984; Ord. 2 §10 & §11, 1992)

13.08.020 Prohibited discharges.

A. General Prohibitions: It shall be unlawful to introduce into the City sewage system any pollutants which "pass through" the system or "interfere" with the operation or performance of the system.

B. Specific Prohibitions: In addition, the following pollutants shall not be introduced into the City sewage system:

1. Pollutants which create a fire or explosion hazard in the sewage system, including but not limited to wastestreams with a closed cup flashpoint of less than sixty (60) degrees Centigrade (140 degrees Fahrenheit) using the test methods specified in 40 CFR 261.21;

2. Pollutants which will cause corrosive structural damage to the City's sewage system or with pH lower than 5.0;

3. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the sewage system, or other interference with the operation of the sewage system;

4. Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause "interference" with the system;

5. Heat in amounts which will inhibit biological activity in the system resulting in "interference." In no case shall heat be introduced in such quantities that the temperature at the Sewage Treatment Plant exceeds 104EF.

C. Additional Specific Prohibitions: It shall be unlawful to do any of the following:

1. To permit or cause the discharge into the City sewage system of any water or other liquids containing toxic, poisonous or other solids, liquids or gases which, in sufficient quantities, either singly or in interaction with other waste, could contaminate the sludge produced by the treatment plant; interfere with or injure any sewage treatment process; constitute a hazard to humans or animals; create a public nuisance; or create any hazard in or have an adverse affect on the quality of any waters discharged from the City sewage treatment works.

2. To connect any device to the City sanitary sewer system other than sanitary plumbing facilities, including but not limited to any down spout, foundations drain, area way drain, storm sewer, or other source of surface runoff or ground water.

3. To operate a wash rack with drains connected to the City sewer system unless a trap which effectively prevents the entry of sand, mud and gravel has been installed in accordance with specifications approved by the City.

4. To make any discharge into the City sewer system from a hotel, restaurant, club, commercial or institutional kitchen, unless a trap for grease and oil, approved by the City, has been installed.

5. To discharge or permit to be discharged into the City sewer system any of the following:

a) Any liquid or vapor, other than domestic hot water, having a temperature higher than one hundred eighty (180) degrees.

b) Any gasoline, benzene, naphtha, fuel oil, mineral oil, other volatile, flammable or explosive liquids, solids or gas.

c) Any solid or viscous substances in quantities or of a size capable of causing obstruction to flow

in sewers or interference with the proper operation of sewage treatment facilities, including but not limited to ashes, cinders, sand, gravel, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, hair, flushings, entrails, paper, dishes, cups or containers.

d) Garbage that has not been properly shredded or ground by a garbage disposal or grinder.

e) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

f) Wastewater from industrial plants containing floatable oil, fat or grease.

g) A slug of wastewater of such size or concentration that the treatment process is not capable of meeting discharge requirements.

h) Any substance which the Sewage Treatment Plant cannot treat sufficiently to meet plant effluent standards, which causes the release of obnoxious gases, or is harmful to the sewer system and parts.

i) Any trucked or hauled pollutants, except wastes obtained from residential septic or holding tanks delivered to discharge points designated by the City.

j) Pollutants which result in the presence of toxic gases, vapors, or fumes within the system in a quantity that may cause acute worker health and safety problems.

6. To discharge or deposit or cause or allow to be discharged or deposited into the City wastewater system any effluent which fails to comply with the following:

Constituent	Limit(mg/L)
Benzene	0.05
BTEX*	0.75

*Aggregate parameter of benzene, ethyl benzene, toluene and xylene

D. 1. It shall be unlawful to discharge any pollutants to the City sewer system in violation of the National Pretreatment Categorical Standards as promulgated or amended and in effect from time to time including any standards or amendments thereto promulgated in the future.

2. The City shall advise all potentially affected industries when applicable Categorical Standards are promulgated. Compliance with such standards shall be implemented within the applicable time as stated in the Categorical Standards, applicable Federal Regulations, or pursuant to a compliance schedule issued pursuant to this

Chapter. In no case may the deadline for compliance with a National Categorical Pretreatment Standard be extended beyond the time stated in the standard.

E. Dilution Prohibited: Except where expressly authorized to do so by an applicable Categorical Pretreatment Standard, no industrial user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete subterfuge for adequate treatment to achieve compliance with the Categorical Pretreatment Standards.

F. The following local limitations are established to prevent pass-through and interference, to protect the receiving water quality and to protect sludge quality. These maximum daily industrial loadings shall be allocated through discharge authorization orders so that the total loading to all industrial users subject to discharge authorization orders shall not exceed the limits shown below:

Constituent	*Daily Maximum Allowable Industrial Load (lbs/day)
Cadmium	0.026
Chromium (Total)	2.19
Copper	2.91
Lead	0.48
Mercury	0.036
Molybdenum	0.04
Nickel	0.35

Constituent	*Daily Maximum Allowable Industrial Load (lbs/day)
Selenium	0.05
Silver	8.03
Zinc	5.19

(Ord. 23, §1(part), 1984; Ord. 2, §2, 1992; Ord. 20, §1 & §2, 1996; Ord. 1, §1, 2000)

13.08.030 Compliance schedules. As a condition of any Discharge Authorization Order, Administrative Enforcement Order, order implementing compliance with Categorical Pretreatment Standards, or other order, the City may impose a compliance schedule setting forth reasonable time limits to insure that progress is being made in discrete steps toward the installation of required pretreatment technology and

facilities, or to meet the other requirements of this Chapter. (Ord. 23, §1(part), 1984)

13.08.040 Self-monitoring and reports.

A. All industrial users subject to Categorical Pretreatment Standards shall sample and monitor their effluent and provide all reports as required by the applicable Standard and 40 CFR 402.12. The required monitoring and sampling frequency shall be set out in the user's Discharge Authorization Order.

B. All users shall notify the City immediately upon the discharge of any slug load or accidental discharge which may contribute to "interference" with the City's sewage system.

C. All "Class I--Significant Industrial Users" shall install, use and maintain a control man-hole and monitoring equipment approved by the City Engineer adequate to facilitate self-monitoring by the industrial user and compliance monitoring by the City. Such man-hole and any monitoring or measuring device shall be accessible and safely located and shall allow the City to readily and safely measure the volume and obtain samples of the flow at any time. In addition, all Class I Industrial Users shall install a suitable device for continuously recording the flow discharged to the City system. Such facilities shall be installed and maintained at the user's expense.

D. All Class I Industrial Users shall take samples, perform and submit reports of a nature and at such frequencies as may be specified by the City in their Industrial Discharge Authorization Order.

E. Any "Class II-Minor Industrial User" may be required by order to install such a control man-hole and monitoring equipment, and to take samples and make reports similar to those required for Class I Industrial Users when it is determined necessary or appropriate for the proper administration and enforcement of this Chapter by the City.

F. It shall be unlawful to falsify any report, tamper with monitoring equipment and methods or fail to make required reports.

G. All results of sampling, testing and related reports should be kept on file and available for inspection for a minimum of three years by the Industrial User. This period of retention shall be extended during the course of any unresolved litigation involving the discharge of pollutants by the Industrial User or during the course of any administrative proceeding before the City upon direction of the City or E.P.A.

H. All data and records obtained by the City in the administration and enforcement of this Chapter shall be a public record, except information or data subject to the confidentiality requirements of 40 C.F.R. 403.14. Provided, however, the U. S. Environmental Protection Agency shall have access to all data obtained by the City and all effluent data shall be available to the public on an unrestricted basis. (Ord. 23, §1(part), 1984; Ord. 2 §4 & §9, 1992)

13.08.050 Right of entry and inspection. The City shall have the authority to enter upon the premises and property of any sewage system customer for the purpose of inspection, administration, or enforcement of the provisions of this Chapter and for sampling and monitoring discharges to the City sewage system. The City shall also have the right to inspect and copy all test results, sample results, and records required to be kept by this Chapter and other business records of the user related to sewage generation at all reasonable times. In the event that entry or inspection is denied, the City shall have recourse to all remedies allowed by law, including obtaining an Inspection Warrant from the Municipal Court or terminating sewer service. (Ord. 23, §1(part), 1984)

13.08.060 Administrative enforcement action.

A. In the event the City determines that any user is introducing wastes into the City sewage system in violation of the requirements of this Chapter, the City may issue an Enforcement Order which may require any of the following:

1. Pretreatment to an acceptable condition;
2. Control over the quantities and rates of discharge;
3. Additional payment to cover the added costs of handling and treating the waste;
4. Rejection of the specific wastes or pollutants.

B. The City may, on account of any violation of any provision of this Chapter, terminate sewer service to any user in accordance with the procedures of this Subsection.

1. In the event that any actual or threatened discharge to the City system presents an imminent or substantial endangerment to the health and welfare of persons or environment, the City may summarily terminate all sewage service. If necessary to effectuate such termination, the City may terminate water service to the user. If the user does not voluntarily comply with such order, the City may sever the sewer connection.

2. In other cases, the City shall deliver notice to the user at his business premises or mail notice to the user at the address listed in the City utility records for such user of termination of sewer service. Such notice shall advise the user of the nature of the violation, the date service will be terminated, and of the user's right to have a hearing before the City Manager before the termination date concerning the question of whether or not he is in violation of any of the provisions of this Chapter. If the user does not request a hearing by the termination date specified, or if following the hearing, the City Manager determines that a violation of this Chapter exists, the City may thereafter terminate sewer service. If necessary to effectuate termination, the City may also terminate water service or sever the sewer connection.

3. If necessary in order to prevent damage to the City sewage system or violations or the City's Discharge Permit, the City may, by order, impose revised effluent limits upon any Class I or Class II Industrial User which may be more stringent than prevailing Federal Standards. The City may impose mass limitations on industrial users which are using dilutions to meet applicable pretreatment standards or in other cases where the imposition of mass limitations is appropriate.

C. Any user may request an informal hearing with the City Manager with respect to the terms of any administrative enforcement order by submitting such request in writing to the City within five days of receipt of such order. The City shall thereafter schedule an informal meeting with the City Manager to resolve any questions concerning the order. (Ord. 21, §1(part), 1984; Ord. 2 §7, 1992)

13.08.070 Enforcement and penalties.

A. It shall be unlawful to violate any of the provisions of this Chapter or of any discharge authorization order, administrative enforcement order or other order or regulation issued pursuant of this Chapter. Any person convicted of such a violation may be penalized by a fine of

not more than one thousand dollars ($1,000) or by a term of imprisonment not to exceed one (1) year, or by both such fine and imprisonment. Provided, however, no person under the age of eighteen (18) years may be sentenced to any term of imprisonment in excess of ten (10) days, except for contempt of court. Each day a violation continues shall be considered a separate offense.

B. All discharges in violation of the provisions of this Chapter are hereby declared to be a nuisance and may be abated in accordance with law.

C. The City may maintain an action in any court of competent jurisdiction to enjoin any violation of the requirements of this Chapter and to recover from the responsible party the amount of any damages done to the City sewage system on account of any violation of this Chapter or otherwise.

D. The rights and remedies provided herein are in addition to all other rights and remedies as may be provided by law.

E. Any person violating any provision of this Chapter, or of any Discharge Authorization Order, Administrative Enforcement Order, or other order or regulation issued pursuant to this Chapter shall be subject to a civil penalty of $1,000 per day each day such a violation continues. The City may maintain an action to recover civil penalties in any court of competent jurisdiction. In addition to the penalty, the City may recover reasonable attorney fees, costs and other expenses associated with enforcement activities such as consultant's fees, sampling and monitoring costs, any damages caused to the City, and any fines or penalties incurred by the City as a result of the violations. In determining the amount of a penalty, the Court shall take into account all relevant circumstances including but not limited to the extent of harm caused by the violation, the magnitude and duration, any economic benefit to the user by failure to comply, and corrective actions by the user, the user's compliance history, and fines or penalties incurred by the City as a result of the violation, and other factors justice requires. (Ord. 23, §1(part), 1984; Ord. 2 §6, 1992; Ord. 18, §2 & §3, 1997)

13.08.080 Definitions. The following definitions shall apply for the purpose of this Chapter.

A. "Industrial user" shall mean the source of the introduction of pollutants into City sewage system from any non-domestic source regulated under Section 307 (b), (c) or (d) of the Federal Water Pollution Control Act, 33 USC 1251, et. seq. It shall also include any user who discharges wastes from industrial processes.

B. "Class I--Significant Industrial User" means any Industrial User of the City's wastewater disposal system who

1. is subject to Federal categorical pretreatment standards; or

2. discharges an average of 25,000 gallons per day or more or process wastewater (excluding sanitary non-contact cooling and boiler blowdown wastewaters); or

3. contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the treatment plant; or

4. has a reasonable potential in the opinion of the City or E.P.A. to adversely affect sewage system operation or for violating any pretreatment standard or requirement.

C. "Class II--Minor Industrial User" is any user that discharges nondomestic pollutants to the public sewer in amounts that, on a routine basis, have insignificant impact on the treatment works, but may nonetheless present the potential to impact the collection or treatment system or to violate the prohibited discharge limitations in the ordinance. This includes those industries that present the potential to cause sewer obstruction, slug loads or chemical spills.

D. 1. "Interference" means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

a. Inhibits or disrupts the sewer system, its treatment processes or operations, or its sludge processes, use or disposal; and

b. therefore is a cause of a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the

SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

2. "Pass Through" means a Discharge which exits the City's sewage treatment plant into waters of the United States in quantities or concentrations which, along or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation).

3. For the purposes of this Subsection (D), an industrial user "significantly contributes" to such a Permit violation or prevention of sludge use or disposal whenever such user:

a) discharges a daily pollutant loading in excess of that allowed by this Chapter, any order issued pursuant hereto, or applicable Federal or State law.

b) discharges wastewater which substantially differs in nature or constituents from the user's average discharge.

c) knows, or has reason to know, that its discharge alone, or in conjunction with discharges from other sources, would result in a violation of the City's Discharge Permit, or prevent sewage sludge use or disposal.

d) knows, or has reason to know, that the City is, for any reason, violating its final effluent limitations in its Discharge Permit and that the user's discharge, either alone or in conjunction with discharges from other sources, increases the magnitude or duration of the City's Discharge Permit violations.

E. "Slug" shall mean any discharge of water, sewage or industrial waste in which the concentration of any given constituents, or which the quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five times the average 24 hour concentration or flow during normal operation.

F. "City" shall mean the City of Delta, Colorado, and any authorized council, commission, board, employee or agent thereof.

G. "Categorical Pretreatment Standards" or "Federal Categorical Standards" means those standards set out in 40 C.F.R. Subchapter N as authorized by Section 307(b) and (c) of the Federal Clean Water Act 33 U.S.C. 1251 et seq., as such standards are promulgated or amended from time to time.

H. 1. "New Source" means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

a. The building, structure, facility or installation is constructed at a site at which no other source is located; or

b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

2. Construction at a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building structure, facility or installation meeting the criteria of paragraphs (1)(a), (b), or (c) of this Section but otherwise alters, replaces or adds to existing process or production equipment.

3. Construction of a new source as defined under this
paragraph has commenced if the owner or operator has:

a. begun, or caused to begin as part of a continuous onsite construction program,

(i) any placement, assembly, or installation of facilities or equipment, or

(ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment, or

b. entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts

for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

I. The term "National Pretreatment Standard," "Pretreatment Standard" or "standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (b) and (c) of the Federal Water Pollution Control Act, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to 40 CFR 403.5.

J. The term "pretreatment requirements" means any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard, imposed on an Industrial User.

K. The term "Publicly Owned Treatment Works" or "POTW" means a treatment works as defined by Section 212 of the Federal Water Pollution Control Act, which is owned by a State or municipality (as defined by Section 502 (4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in Section 502 (4) of the Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works. (Ord. 23, §1(part), 1984; Ord. 2 §1, 1992; Ord. 20, §4, 1996)

13.08.090 Administration.

A. The City Manager shall be responsible for the administration and enforcement of this Chapter.

B. The City Manager may adopt such additional regulations as may be appropriate for the administration, interpretation and enforcement of this Chapter.

C. The City Manager shall develop local limits and enforce them with respect to any substance deemed appropriate. (Ord. 23, §1(part), 1984; Ord. 2 §13, 1992)

13.08.100 Specific reporting requirements.

A. In addition to any other types of reports required by this Chapter, Industrial Users shall submit the specific reports as required by 40 CFR, Section 403.12 including those referenced in this Section.

B. Within 80 days after the effective date of a categorical pretreatment standard or when otherwise required pursuant to 40 CFR 403.12(b), Industrial Users subject to such categorical pretreatment standards shall submit to the City a baseline monitoring report which contains the information listed in 40 CFR 403.12(b).

C. Compliance schedule progress reports shall be submitted as required by 40 CFR 403.12(c).

D. Reports on compliance with categorical pretreatment standards shall be submitted as required pursuant to 40 CFR 403.12(d).

E. Periodic reports on continued compliance shall be submitted as required pursuant to 40 CFR 403.12(e).

F. All Industrial Users shall promptly notify the City in advance of any substantial change in the volume or character of pollutants in their discharge.

G. All reports required by this Chapter including baseline monitoring reports, 90-day compliance reports, periodic reports on continued compliance must be signed and certified by a duly authorized representative of the Industrial User, meeting the requirements of 40 CFR 403.12(l) and the certification statement shall meet the requirements of 40 CFR 403.6(a)(2)(ii).

H. All users must notify the City, EPA and Colorado Department of Health of the discharge of any hazardous waste pursuant to 40 CFR 403.12(p). (Ord. 2, §3, 1992)

13.08.110 Required test procedures. Test procedures as required in 40 C.F.R. Part 136 shall be used with respect to all tests required or conducted pursuant to these regulations. (Ord. 2, §5, 1992)

13.08.120 Publication of list of significant violators. The City shall at least once annually publish a list of users in significant noncompliance as that term is defined in 40 C.F.R. 403.8(f)(2)(vii). (Ord. 2, §8, 1992)

13.08.130 Slug discharge control.

A. The City shall "evaluate" at least once every two years whether each Significant Industrial User needs a plan to control slug discharges. For purposes of this Section, a slug

discharge is any discharge of non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge.

B. The results of such activities shall be available to the EPA and CDH upon request.

C. If the City decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

1. Description of discharge practices, including non-routine batch discharges;

2. Description of stored chemicals;

3. Procedures for immediately notifying the City of slug discharges, including any discharge that would violate a prohibition under 40 C.F.R. 403.5(b), with procedures for follow-up written notification within five days;

4. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structure or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response. (Ord. 2, §12, 1992)

TITLE 15

LAND USE, BUILDING, AND CONSTRUCTION

Chapters:

Chapter 15.04

BUILDING REGULATIONS

Sections:

15.04.010 Adoption and application of codes.

A. There is hereby adopted for the purpose of providing minimum standards to safeguard life or limb, health, property and public welfare The International Building Code, 2003 Edition, including Appendix C as published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795; the subject matter of which is regulations

governing, the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure than structures are safe, sanitary and fit for occupation and use; the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such structures; and providing for the issuance of permits and collection of fees therefor.

B. There is hereby adopted for the purpose of providing minimum standards to protect persons and property The International Residential Code, 2003 Edition, including Appendices E, G, H, J and K, as published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795; the subject matter of which is regulations governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached and two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with separate means of egress and the issuance of permits and collection of fees therefor.

C. There is hereby adopted for the purpose of providing minimum standards to protect persons and property The International Mechanical Code, 2003 Edition, as published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795;; the subject matter of which is regulations governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems and the issuance of permits and collection of fees therefor.

D. There is hereby adopted for the purpose of providing minimum standards to protect persons and property The International Fuel Gas Code, 2003 Edition, as published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795; the subject matter of which is regulations governing fuel gas systems and gas-fired appliances and the issuance of permits and collection of fees therefor.

E. There is hereby adopted for the purpose of providing minimum standards to protect persons and property The International Plumbing Code, 2003 Edition, as published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795; the subject matter of which is regulations governing the design, construction, quality of

materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems as herein provided; providing for the issuance of permits and collection of fees therefor.

F. There is hereby adopted for the purpose of providing minimum standards to protect persons and property The International Energy Conservation Code, 2003 Edition, as published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795; the subject matter of which is regulations governing energy efficient building envelopes and installation of energy efficient mechanical, lighting and power systems and for the issuance of permits and collection of fees therefor.

G. Pursuant to C.R.S. 12-23-104, the electrical code, as amended and enforced by the State of Colorado from time to time shall apply to all electrical work within the City.

H. One copy of each of the above codes is on file in the office of the City Clerk and may be inspected during regular business hours. Additional copies are available for purchase. (Ord. 7, §1(part), 1986; Ord. 17, §1(part), 1990; Ord. 5, §1, 1994; Ord. 21, §1, 1999; Ord. 31, §8, 2000; Ord. 13, §1, 2004)

15.04.020 Administration.

A. The City Manager shall be responsible for the enforcement of this Chapter, and the Codes adopted herein by reference. He may appoint a Building Official or one or more inspectors who shall enforce, interpret and administer the provisions of this Chapter, and the Codes adopted herein by reference. Provided, however, that the state electrical code shall be administered and enforced in accordance with State law by the State Electrical Inspector.

B. The City Manager and State Electrical Inspector and their designated representatives shall have the right of entry to inspect and enforce the provisions of this Chapter, the state electrical code and any of the Codes adopted herein by reference in accordance with the procedures and provisions of Subsection 104.6 of The International Building Code in addition to any other provisions provided by law.

C. Whenever, in any of the Codes adopted or applied in this Chapter, it is provided that anything must be done, subject to the approval or discretion of an inspector or official, this shall be construed to give such official or inspector only the

discretion to determine whether rules or standards established by such Codes have been complied with, and no such provisions shall be construed as giving any official or inspector any arbitrary or discretionary power to require conditions not prescribed by said Codes or to enforce the Codes in an arbitrary or discriminatory manner.

D. Permit and other fees shall be established by City Council Resolution. (Ord. 7, §1(part), 1986; Ord. 17, §1(part), 1990; Ord. 5, §2, 1994; Ord. 21, §2, 1999; Ord. 13, §2, 2004)

15.04.030 Deletions, modifications and exceptions to the Codes adopted by reference or applied.

A. The International Building Code, 2003 Edition, is amended as follows:

1. References to jurisdiction in Section 101.1 and elsewhere mean the City of Delta.

2. The flood insurance study and maps referred to in Section 1612.3 are as adopted by Chapter 15.56 of the Delta City Code.

3. Chapter 27 and Sections 101.4.1, 101.4.5, 103, 104.7, 104.8, 112, 113.1, 113.3 and 113.4 are deleted.

4. Section 105.2 is amended to exempt the following from permit requirements:

a. Decks and platforms not more than 30 inches above grade and not over any basement or story below.

b. Replacement of sinks, faucets, showers, tubs, water heaters, dishwashers, garbage disposals and lawn sprinkler systems.

c. Window replacement not requiring significant structural alterations.

5. The date referenced in Section 3410.2 is January 1, 1984.

B. The International Residential Code is amended as follows:

1. Chapters 33 through 42 and Sections G2447.2, R103, R104.7, R104.8, R112, R113.1, R113.3, and R113.4 are deleted.

2. Section G2445 is amended to read as follows:

"G2445: Unvented fuel burning room heaters are prohibited."

3. Section AH 106.1 is amended to read as follows:

"A patio cover may be supported on a concrete slab on grade without footings, provided the slab is not less than 3½ inches (89 mm) thick and further provided that the columns do not support live and dead loads in excess of 750 pounds (3.34 kN) per column."

4. A new Section M1301.2 is added to read as follows:

"M1301.2: Prohibited Locations. Equipment shall not be located in a hazardous location unless listed and approved for the specific installation. Fuel-burning equipment, electric resistance heating devices or electrostatic air cleaners shall be not installed in a surgical procedure or medical treatment room. Fuel-burning equipment shall not be installed in a closet, bathroom or a room readily usable as a bedroom or in a room compartment or alcove opening directly into any of these.

"**EXCEPTIONS:** 1. Direct vent equipment and electric heat furnaces.

2. Access to furnaces located in an attic or underfloor crawl space may be through a closet.

3. A vented appliance located in an unconfined space in accordance with the combustion air requirements of Chapter 7.

4. A fireplace may be approved for installation in a bathroom or bedroom if equipped with an approved method of obtaining combustion air from outside.

5. A warm-air furnace in an enclosed space with combustion air obtained from outside the building in conformance with Chapter 7 and having a tightfitting gasketed door with a closer may have access through a bathroom or bedroom.

"Equipment burning liquefied petroleum gas (LPG) or liquid fuel shall not be located in a pit, an underfloor space, below grade or similar location where vapors or fuel might unsafely collect unless an approved method for the safe collection, removal and containment of the vapors or fuel is provided.

"In areas subject to flooding, equipment which would be damaged or create hazardous conditions if subjected to inundation shall not be installed at or

below grade unless suitably protected by elevation or other approved means."

5. Section R105.5 of the IRC is amended to read as follows:

"R105.5 Expiration. Every permit issued by the Building Official under the provisions of this Code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 120 days from the date of issuance, or if any one scheduled inspection is not completed within 120 days of the previous mandated inspection per the following inspection schedule unless the Building Official determines that because of the size and complexity of the building, additional time will be required:

1. Rebar in footer or monolithic slab.
2. Rebar in basement wall or stem wall.
3. Rough framing (to include roof and wall sheathing)
4. Insulation.
5. Drywall.
6. All final inspections (electrical, plumbing, mechanical, building)

"Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefor shall be one half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work, and provided further that such suspension or abandonment has not exceeded one year. In order to renew action on a permit after expiration, the permittee shall pay a new full permit fee.

"Any permittee holding an unexpired permit may apply for an extension of the time within which work may commence under that permit when the permittee is unable to commence work within the time required by this Section for good and satisfactory reasons. The Building Official may extend the time for action by the permittee for a period not exceeding 180 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once."

6. Section 105.2 is amended to exempt the following from permit requirements:

a. Decks and platforms not more than 30 inches above grade and not over any basement or story below.

b. Replacement of sinks, faucets, showers, tubs, water heaters, dishwashers, garbage disposals and lawn sprinkler systems.

c. Window replacement not requiring significant structural alterations.

7. Subsection R907.3(3) is amended to read as follows:

"3. Where the existing roof has two or more applications of any type of roof covering; except that, a metal roof system may be applied over a second layer of asphalt or fiberglass shingles when applied in accordance with the manufacturer's recommendations."

8. Add a new Subsection R907.7 to read as follows:

"R907.7 Attic ventilation shall be made to be in compliance with Section 1203.2 of the International Building Code."

9. References to jurisdiction in Section R101.1 and elsewhere mean the City of Delta.

10. Subsection P2603.6.1 is amended to specify "12 inches below finished grade…" and "4 inches below grade…."

11. Subsection P3103.1 is amended to specify "12 inches above the roof…" and "2 inches above anticipated snow…."

C. The International Plumbing Code is amended as follows:

1. Sections 103, 104.4, 104.8, 108.1, 108.2, 108.3, 108.4, 108.5, 108.6, 109, 106.6.2, 106.6.3, and 707.1(6) are deleted.

2. References to "jurisdiction" in Section 101.1 and elsewhere shall mean the City of Delta.

3. Section 305.6.1 is amended to specify "12 inches below finished grade…" and "4 inches below grade."

4. Section 904.1 is amended to specify "12 above the roof…."

5. Section 106.2 is amended to exempt the following from permit requirements: Replacement of sinks, faucets, showers, tubs, water heaters, dishwashers, garbage disposals and lawn sprinkler systems.

6. Section 708.3.5 is amended to add the following:

> "An approved two-way cleanout is allowed when within 18" of finish grade when junction of building drain and building sewer is greater than 18" below finish grade, directional fittings shall be used for building sewer cleanout and for required building drain cleanout. Cleanouts shall extend to 6" above finish grade or an approved cover shall be provided."

7. Nothwithstanding anything in The International Plumbing Code to the contrary, the Building Inspector may waive requirements to remove or fill in an abandoned individual sewage disposal system when no safety or health hazard will result from leaving it in place as is.

D. The International Mechanical Code is amended as follows:

1. Sections 103, 104.4, 104.8, 106.5.2, 106.5.3, 108.1, 108.2, 108.3, 108.4, 108.5, 108.6 and 109 are deleted.

2. References to "jurisdiction" in Section 101.1 and elsewhere shall mean the City of Delta.

E. The International Energy Conservation Code is amended as follows:

1. References to "jurisdiction" in Section 101.1 and elsewhere shall mean the City of Delta.

F. The International Fuel Gas Code is amended as follows:

1. References to "jurisdiction" in Section 101.1 and elsewhere shall mean the City of Delta.

2. Sections 103, 104.4, 104.8, 106.5.2, 106.5.3, 108.1, 108.2, 108.3 108.4, 108.5, 108.6, 109, 621 and 623.2, exceptions 3 and 4 of 303.3, and paragraphs 8 and 10 of Section 501.8 are deleted.

3. A new paragraph 6 is added to Section 303.3 to read as follows:

"303.3(6): Prohibited Locations. Equipment shall not be located in a hazardous location unless listed and approved for the specific installation. Fuel-burning equipment, electric resistance heating devices or electrostatic air cleaners shall be not installed in a surgical procedure or medical treatment room. Fuel-burning equipment shall not be installed in a closet, bathroom or a room readily usable as a bedroom or in a room compartment or alcove opening directly into any of these.

"**EXCEPTIONS:** 1. Direct vent equipment and electric heat furnaces.

2. Access to furnaces located in an attic or underfloor crawl space may be through a closet.

3. A vented appliance located in an unconfined space in accordance with the combustion air requirements of Chapter 7.

4. A fireplace may be approved for installation in a bathroom or bedroom if equipped with an approved method of obtaining combustion air from outside.

5. A warm-air furnace in an enclosed space with combustion air obtained from outside the building in conformance with Chapter 7 and having a tightfitting gasketed door with a closer may have access through a bathroom or bedroom.

"Equipment burning liquefied petroleum gas (LPG) or liquid fuel shall not be located in a pit, an underfloor space, below grade or similar location where vapors or fuel might unsafely collect unless an approved method for the safe collection, removal and containment of the vapors or fuel is provided.

"In areas subject to flooding, equipment which would be damaged or create hazardous conditions if subjected to inundation shall not be installed at or below grade unless suitably protected by elevation or other approved means." (Ord. 7, §1, 1986; Ord. 17, §1(part), §2 & 3, 1990; Ord. 5, §3, 1994; Ord. 21, §3, 1999; Ord. 9, §3 & 4, 2004; Ord. 13, §2, 2004)

15.04.040 Appeals.

A. The decision of the City Manager or his designated official or inspector under this Chapter may be appealed to the Board of Appeals by filing a written appeal on forms provided by

the City with said official or inspector within fifteen (15) days of the date he renders his decision.

B. Such appeal should set in full the reasons for the appeal, and specify the relief requested.

C. The inspector shall review the appeal and forward it to the Board of Appeals attaching thereto his written recommendations and reasons for his decision.

D. The decision of the Board of Appeals shall be final.

E. The Board of Appeals shall have no authority to grant any variance.

F. The City Council shall appoint five members to the Board of Appeals for staggered terms. (Ord. 7 §1(part), 1986; Ord. 13, §2, 2004)

15.04.050 Violations and penalties.

A. It shall be unlawful to violate any provision of this Chapter, the state electrical code, any of the Codes adopted by reference herein, or any stop order or other order issued by the City pursuant to said Codes or this Chapter. Any person convicted of such a violation shall be punished by a fine of not more than $1,000.00 or imprisonment for not more than one (1) year or by both fine and imprisonment; provided, however, no person under the age of eighteen (18) years shall be sentenced to any term of imprisonment in excess of ten (10) days, except for contempt of Court. Each day during which any violation is committed or permitted to continue shall be considered as a separate offense.

B. Continuing violation of the provisions of this Chapter or the Codes adopted herein by reference, the state electrical code, or of any order issued pursuant to this Chapter or the Codes adopted by this Chapter is hereby declared to be a nuisance and may be abated in accordance with law.

C. In addition to any other remedy the City may have, it may maintain an action in a Court of competent jurisdiction to enjoin any violation of any provision of this Chapter, the state electrical code, or of the Codes adopted herein by reference.

D. The City may refuse to issue any permits required by this Chapter, or by the Codes adopted herein by reference if the applicant is in violation of any

provisions of this Chapter, the state electrical code, any of the Codes adopted herein by reference, or any stop order or other order issued pursuant thereto . (Ord. 7, §1(part), 1986; Ord. 17 §1(part), 1990; Ord. 5, §4, 1994; Ord. 18, §2 & §3, 1997; Ord. 32, §4, 1999; Ord. 13, §4, 2004)

15.04.060 Fence construction and maintenance requirements.

A. All fences shall be constructed so that all exterior surfaces exposed to the weather are constructed of weather-resistant materials or adequately treated or painted for weather resistance. Any components in contact with the ground shall be of rot resistant materials or adequately treated to resist rot. Provided, however, this shall not be construed to apply to the Fort Uncompahgre fences.

B. Plywood, pressboard, waferboard, chipboard, cardboard, pallets and other similar materials shall not be used for fences.

C. No fence, free-standing wall, hedge or other plantings shall be located, constructed or maintained on corner lots in a place or at a height which unreasonably creates a traffic hazard by obstructing vision from vehicles on abutting streets. The City Manager may adopt regulations and guidelines as necessary for the interpretation and administration of this provision.

D. All fences shall be constructed and maintained so they do not create a safety hazard.

E. All fences shall be maintained in good repair. It shall be prima facie evidence that a fence is not being maintained in good repair if any of the following conditions exist:

1. Missing, broken or loose boards.
2. Chipped, faded or peeling paint or stain.
3. Warped or delaminated boards.
4. Chain link fencing which is not properly attached to supports.
5. Leaning fences, or fences which are inadequately braced to resist wind, or support the weight of persons climbing them. (Ord. 12, §1, 1994; Ord. 31, §7, 2000)

15.04.070 Housing maintenance requirements.

A. (1) Structures requiring plumbing shall be provided with a treated water supply directly or indirectly from the City of Delta system unless Tri-County Water Conservancy District service is allowed pursuant to the service area agreement

between the City and the Tri-County Water Conservancy District, and with City sewer service or an authorized and approved Individual Sewage Disposal System (ISDS), properly maintained and operated.

(2) No building permit or certificate of occupancy shall be granted for any such building unless proof of availability of such water supply and sewer or ISDS is provided.

(3) No new ISDS shall be authorized and an existing ISDS may not be used to serve new construction, or a factory-built structure recently set or to be set, unless the City determines that connection to the City sewer is technically unfeasible or will cost substantially more than a lawful approved ISDS.

(4) Provided, however, structures lawfully using an existing cistern or well as of September 1, 2001, may continue to do so so long as such system is maintained in accordance with applicable Federal, State, County and City regulations, is in good operating condition, and does not present a health hazard.

(5) All ISDS's must be in compliance with applicable State, County and City regulations.

B. It shall be unlawful to occupy any structure, other than the lawful occupancy of a travel home, as a residence without the required plumbing and water or sewer service in violation of subsection (A), or for more than three days after water, sewer or electric service has been terminated to the premises. (Ord. 32, §1, 2001; Ord. 20, §1, 2002)

15.04.080 Site development and maintenance requirements.

A. No building permit for new construction or additions to existing structures shall be issued until a site development plan has been approved pursuant to this section. The formality, scope and content of each site development plan shall depend upon the use and size of the building or structure for which the permit is sought. It shall generally address and meet any requirements, standards and specifications applicable to developments under Titles 16 and 17 of the Delta Municipal Code that are reasonably attributable to the size and allowed use of the building or structure proposed for construction. Provided, however, that the landscape provisions set forth in Section 15.04.080.B.1.d shall not apply to building permits sought for (a) single family residences, duplexes, farms, ranches and accessory buildings thereto; or (b) an addition to an existing building or structure which increases the footprint area by no more than fifty percent (50%), or has construction value of no more than twenty thousand dollars

($20,000.00); or (c) the erection of a building which is accessory to an existing building and which increases the aggregate footprint area by no more than fifty percent (50%), or has a construction value of no more than twenty thousand dollars ($20,000.00).

B. The site development plan shall be submitted on forms provided by the City with a building permit application and comply with the following requirements:

1. Plans and specifications shall be submitted, drawn to a scale adequate to clearly show all required features and not less than 1" equals 40 feet, for the construction of the following improvements consistent with City construction standards, specifications and design standards.

a. Installation of new, or repair of damaged, curb, gutter and sidewalk along abutting streets, except in subdivisions where it is not required by current subdivision regulations.

b. Required off-street parking spaces, including landscaped areas, and maneuvering areas adequate to avoid any need for vehicles to back onto sidewalks and other developed parts of adjoining streets, and adequate to meet all applicable requirements. The required parking and maneuvering areas shall be constructed and surfaced according to Section 17.04.230.G.

c. Site drainage adequate to avoid damage or adverse effects to improvements, structures and property on and off the site.

d. Landscaping, including provisions for trees and shrubs, subject to the following minimum requirements:

i. At least 25% of the linear frontage of the site abutting public street rights-of-way to a minimum width of fifteen feet, unless the City approves an alternative plan as more effectively presenting a landscaped view from the abutting street rights-of-way; and

ii. Inclusive of the above frontage requirement, landscaping shall be required in at least 15% of that part of the site not covered by buildings for sites located in residential zoning districts; at least 6% of that part of the site not covered by buildings for sites located in commercial zoning districts; and at least 2% of that part of the site not covered by buildings for sites located in industrial zoning districts.

iii. In addition, each parking area which contains either twenty or more spaces, or more than one aisle, shall incorporate landscaped islands dispersed throughout the parking area with such islands to occupy a minimum of five

percent (5%) of the parking area and to be landscaped in accordance with City standards and specifications.

iv. Such landscaping shall consist of trees, shrubs, and ground covers, and may include up to a maximum of 60% coverage in inert materials such as decorative paving stones, lava rock, pea gravel, etc., excluding from the calculation of the area to be landscaped any portion that is lawfully covered by a building.

v. In addition, property within the defined highway corridor of Section 15.04.090 shall also meet the requirements therein.

e. Driveways, culverts and curb cuts.

f. All outdoor lighting fixtures shall be shielded so that the light source is not directly visible off the premises.

2. The current deed to the property or other evidence of title shall be submitted with the plan.

3. If the abutting street is not paved, a recordable covenant binding the property for assessments for the cost of paving and related improvements must be properly executed and submitted.

C. In those cases where the grade for curb, gutter and sidewalk cannot be established by the City or immediate construction is impractical, a recordable covenant binding the property to pay for such improvements or other security pursuant to Subsection 15.20.020(B) may be accepted by the City in lieu of immediate construction of the curb, gutter or sidewalk.

D. Any improvement, the construction of which has been secured pursuant to City Subdivisions Regulations, Planned Unit Development Regulations or by other contract, need not be provided as part of the site development plan.

E. Following review, revision and approval by the City, the plan and specifications as approved by the City shall be revised in final form, stamped with City’s approval and filed with the City. Thereafter, a building permit may be issued.

F. No occupancy permit shall be issued until the required improvements are constructed and approved by the City in compliance with the approved plans or secured for completion within 6 months, and a recordable maintenance covenant running with the land on forms provided by the City is executed, approved by the City, and recorded.

G. All required improvements and landscaping shall be maintained in good repair and safe condition. Violation of this provision is hereby declared to be a nuisance which may be abated by the City in any lawful manner.

H. 1. Variances by the Planning Commission may be granted from the requirements of Subsection (B) above if it determines following the review procedure of Section 17.04.290 of City Zoning Regulations that all the criteria of this Subsection H are met:

a. The variance is requested for an addition to an existing building or construction of a purely accessory structure.

b. The variance will not adversely affect the public health, safety or welfare.

c. The addition or structure will have a *de minimus* effect on traffic, parking and drainage.

d. The variance requested is the minimum variance that will afford relief.

e. The variance will not result in development incompatible with other property or buildings in the area and will not affect or impair the value, use or development of other property.

f. Strict compliance is technically infeasible or the cost of the required site improvements is substantially more than the cost of the addition or structure, and the addition or structure is insignificant with respect to the structures already on the premises.

2. Published or delivered notice of the hearing as specified in Subsection 17.04.290(D) is not required.

I. Following approval of a site development plan, requests for amendments may be filed with the City and shall be reviewed in accordance with the provisions of Paragraphs (B), (C), (D), (E), and (F) above.

J. The City Manager is authorized to issue supplemental regulations to implement, interpret and administer these provisions and to provide detailed standards and specifications, consistent herewith.

K. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of these requirements, upon written application, the City Council may vary or modify the application of these requirements, so that the spirit of the requirements is observed, public safety and welfare secured, and substantial justice done. (Ord. 6, §1,

2004; Ord. 4, §1 & 2, 2005; Ord. 3, §13, 2008; Ord. 6, §1, 2008; Ord. 8, §1, 2012; Ord. 12, §1, §2, 2012)

15.04.090 Supplemental site development standards for highway corridors.

A. Property, any part of which is located within four hundred feet (400') of a right-of-way line of Highways 50 and 92, and Crawford Avenue west of 1800 Road, shall, in addition to other applicable requirements, be subject to the supplemental site development standards described in this Section. Whichever City ordinance or regulation requires more stringent or restrictive requirement shall apply. It is provided, however, that this Section shall not apply to any application for a building permit for (a) an addition which increases the footprint area by no more than fifty percent (50%), or has construction value of no more than twenty thousand dollars ($20,000.00); or (b) the erection of a building which is accessory to an existing building and which increases the aggregate footprint area by no more than fifty percent (50%), or has a construction value of no more than twenty thousand dollars ($20,000.00).

1. Building facades which are substantially constructed of smooth-face concrete, smooth-face concrete block, or metal siding, or similar monolithic building materials shall be designed to include either a) two (2) foot eaves and a different colored pitched roof with a height between the top of the roof and the eave of at least equal to the distance from the eave to the ground, or a 8:12 pitch; or b) contrasting surface materials on a minimum of 24% of area of the front, and on 20% on each side and rear where visible from any street or proposed street. Such materials may include, but are not limited to, contrasting materials such as glass, brick, stucco, wood, stone, different colored metal or different colored paint. In either case, other architectural elements must also be included in the design which include but are not limited to architectural projections such as dormers, roof overhangs, protective canopies, and creatively shaped window openings. Metal skinned buildings are not allowed within the B-1 Zoning District.

2. Exterior mechanical equipment, including electrical transformers, shall either be incorporated in the overall form of the building or screened from view from any street by materials consistent with the landscaping, safety, the main building, and the National Electrical Code.

3. Refuse collection containers and areas shall be screened from view from any street or residential area by materials consistent with the landscaping and building.

4. a. Landscaping shall be installed and maintained to a minimum depth of 15 feet along 70% of the frontages of highways, streets and roadways identified in the first sentence of this subsection A.

b. Landscaping shall be installed and maintained to a minimum depth of 15 feet along a minimum of 25% of the secondary street frontages, excluding driveways and sidewalks.

B. The regulations of this Section shall apply to the entire building, lot, parcel or contiguous lots or parcels which constitute a single site, when any part thereof is located within 400 feet of the right-of-way of the highway or street segments described in Subsection (A) above.

C. The City Manager is hereby authorized to adopt regulations as may be appropriate to implement, interpret and administer the provisions of this Section and to provide detailed Standards and Specifications, consistent herewith.

D. All required improvements and landscaping shall be maintained in good repair and safe condition. Violation of this provision is hereby declared to be a nuisance which may be abated by the City in any lawful manner.

E. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of these requirements, upon written application, the City Council may vary or modify the application of these requirements, so that the spirit of the requirements is observed, public safety and welfare secured, and substantial justice done. (Ord. 6, §1, 2004; Ord. 4, §1 & 2, 2005; Ord. 6, §1, 2008; Ord. 13, §1, 2012)

Chapter 15.05

MANUFACTURED STRUCTURES

Sections:

15.05.010 Permit required.

A. It shall be unlawful to set up any mobile home or manufactured structure excluding travel homes, on any space, lot or site, including a mobile home park, for use or occupancy until a building permit has been obtained from the City. No building permit shall be issued unless it meets the criteria of this chapter and all other applicable ordinances and any sales and use tax due has been paid.

B. Application for a building permit shall be made on forms supplied by the City and shall be accompanied by a fee determined by City Council. Accompanying the application shall be a site plan drawn to scale showing the dimensions of the mobile home lot or space, the dimensions of the structure itself, setbacks, and the location of any other structures, easements or improvements on the lot or space.

C. All repairs, remodeling, additions or alterations to any manufactured structure shall be subject to the permit and other requirements of Chapter 15.04 and the codes adopted and applied therein, except that manufactured structures and mobile homes originally constructed to standards of paragraph 15.05.030(A)(1)(b) or which are lawfully existing but were not constructed pursuant to such standards, may utilize standards of construction consistent with paragraph 15.05.030(A)(1)(b) for such work. (Ord. 13, §2, 1994)

15.05.020 Foundation and set up requirements.

A. Manufactured structures shall be placed on a permanent foundation meeting City Building Code requirements except that mobile homes may be set up as follows in licensed mobile home parks, in authorized spaces in travel home parks, or at other locations in use districts where a permanent foundation is not required for mobile homes:

1. The mobile home shall be set up so that there is a minimum eighteen inches (18") high area for access to the water and sewer connections measured from the bottom of the frame to the ground or pad.

2. The support areas shall consist of a poured concrete or leveled gravel base.

3. The mobile home shall be set upon supports along both sides no more than eight feet (8') apart, center to center, or as per manufacturer's specification. Each support shall consist of two four inch by eight inch by sixteen inch (4" x 8" x 16") concrete pad blocks, topped by additional concrete blocks placed with their long dimensions running perpendicular to the long dimensions of the pad blocks. Pad blocks are not required if the supports rest upon a minimum six inch (6") reinforced concrete slab. The top of each support shall be capped by a two inch by eight inch by sixteen inch (2" x 8" x 16") wood block, and wedges shall be used to insure a tight set up. Alternate supports may be approved pursuant to Section 106 of the Uniform Building Code. The Building Inspector may require a soils test and/or larger pad blocks or poured footers if soil conditions provide inadequate bearing capacity.

4. All plumbing, electrical or gas connections and work shall meet applicable Code requirements.

5. The site shall be graded to direct drainage away from the mobile home.

6. That portion of the water supply line subject to flexing shall be copper or polybutylene. That portion subject to freezing shall be wrapped with heat tape or otherwise frost proofed.

7. All applicable requirements of this chapter, City Land Use regulations, Flood Plain Management regulations and other City ordinances and regulations shall be met.

8. Fire resistant skirting meeting City standards shall be installed within 60 days of set up around the lower perimeter of the mobile home between the ground and the mobile home, completely enclosing all water and sewer connections. Skirting shall be of materials suitable for exterior exposure and contact with the ground. Permanent perimeter enclosures

shall be constructed of materials as required by the Uniform Building Code for typical foundation construction.

9. The mobile homes and accessory storage structures shall be adequately anchored and attached by a tie down system adequate to resist maximum foreseeable wind forces. (Ord. 13, §2, 1994)

15.05.030 Construction standards for manufactured structures.

A. No building permit shall be issued for any manufactured structures unless the following criteria are met:

1. a. The structure complies with the requirements of Chapter 15.04 of the Delta Municipal Code, or

b. Its use is restricted to a single family residence and

i) it bears a HUD certificate of approval;

ii) for mobile homes manufactured after June 15, 1976, it complies with the requirements of the National Mobile Home Construction and Safety Standards Act of 1974 (42 USC 1501, et seq.);

iii) for mobile homes manufactured prior to June 15, 1976, and subsequent to the effective date of the Colorado Housing Act of 1970 (C.R.S. 24-32-701, et seq.), it complies with the requirements of said Act and all rules and regulations promulgated thereunder;

iv) for mobile homes manufactured prior to the effective date of the Colorado Housing Act of 1970 (C.R.S. 24-32-701, et seq.) it is certified by a registered professional engineer, or architect, to meet or exceed, on an equivalent engineering performance basis, the standards established pursuant to the Colorado Housing Act of 1970 or the National Mobile Home Construction Act of 1974; or

v) the mobile home was constructed in compliance with ANSI Standard 119.1 and has a seal certifying thereto, affixed to the structure.

2. The structure shall be in good condition, safe and fit for the intended use, and the utility connections as set up are safe, conform to plumbing and electrical code requirements and pose no safety or fire hazard. The Building

Inspector may require this to be confirmed by a licensed engineer.

B. No mobile home or other manufactured structure may be set up for uses other than a single family residence, including lawful accessory uses thereto, unless it complies with the City Building Codes and the regulations of Chapter 15.04 or is less than 250 square feet in floor area, is erected in accordance with the manufacturer's instructions and is not occupied by people on a regular basis. Provided however this does not apply to mobile homes or travel homes authorized for use by a permit issued pursuant to Section 15.52.040.

C. Additions to mobile homes must meet the requirements of City Building Codes. All such additions must have a foundation capable of supporting that addition without dependence upon the manufactured structure frame for support of any kind. Additions to mobile homes which require structural attachment to the mobile home or a water tight seal between the addition and the mobile home shall be allowed only if the mobile home is set on a permanent foundation complying with City building codes.

D. It shall be unlawful to occupy any mobile home until an occupancy permit has been issued following an inspection by the City to determine that it was installed in compliance with all applicable requirements of this section and other ordinances and regulations. (Ord. 13, §2, 1994; Ord. 9, §17, 2004)

15.05.040 Definitions. Mobile Home, Mobile Home Park, Travel Home, Travel Home Park and Manufactured Structure shall be defined as set out in Section 15.52.010 of the Delta Municipal Code. (Ord. 13, §2, 1994)

15.05.050 Non-conforming mobile homes and manufactured structures. Manufactured structures or mobile homes lawfully existing on March 1, 1994, which don't meet the construction standards of this chapter may continue to be used at their existing locations, so long as they are maintained in good repair and safe condition. (Ord. 13, §2, 1994)

Chapter 15.06

FIRE SAFETY REGULATIONS

Sections:

15.06.010 Adoption of Fire Code.

A. There is hereby adopted for the purpose of providing minimum standards to prevent fires, protect persons and property and to promote the public health, safety and welfare, the following specified provisions of The International Fire Code, 2003 Edition, published by the International Code Council, 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, the subject matter of which is regulations for safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises; and the issuance of permits and fees therefor: Uniform Fire Code Sections 101, 102, 104 (except 104.6), 105, 106, and 107; Chapter 2; Chapter 3 (except 301.2 and 307); Chapter 5 (except Section 506); Chapter 6; Chapter 9; Chapter 10 (except Sections 1026 and 1027); and Chapters 15, 24, 26, 27, 30, 33, 34, 38, and 45; and Appendices E & F.

B. One copy of each of the above codes is on file in the office of the City Clerk and may be inspected during regular business hours. Additional copies are available for purchase. (Ord. 5, §5(part), 1994; Ord. 21, §5, 1999; Ord. 4 §1, 2001; Ord. 13, §5, 2004)

15.06.020 Amendments and additions to the Codes.

A. The limits referred to in Sections 3404.2.9.5.1 and 3406.2.4.4 of The International Fire Code in which the storage of Class I and Class II liquids in above ground tanks outside of buildings is prohibited includes the entire City except areas within 200 feet of railroad tracks owned by the Railroad Company, or within 500 feet of the centerline of the state and federal highways.

B. "Jurisdiction" as used in Section 101.1 and elsewhere in The International Fire Code shall mean the City of Delta, Colorado.

C. The limits referred to in Section 3804.2 of The International Fire Code in which the storage of liquified petroleum gas is restricted are hereby established as follows:

The entire City except the I-2 Districts and that part of B-3 District easterly of U. S. Highway 50.

D. The limits referred to in Section 3204.3.1.1 of The International Fire Code in which the storage of flammable cryogenic fluids in stationary containers is prohibited are hereby established as follows:

None

E. Permits shall be required pursuant to Section 105 of The International Fire Code when specified in Chapters 24, 27, 33, 34, and 38 of The International Fire Code. (Ord. 5, §5 (part), 1994; Ord. 21, §5, 1999; Ord. 13, §5, 2004)

15.06.030 Administration and enforcement.

A. The City Manager shall be responsible for the administration and enforcement of this Chapter and the Codes adopted herein by reference. The City Manager may appoint a Building Official or one or more inspectors who shall enforce, interpret and administer the provisions of this Chapter and said Codes.

B. The City Manager and designee shall have the right of entry to inspect and enforce the provisions of this Chapter and the Code adopted herein in accordance with the procedures and provisions of Section 104.6 of The International Building Code in addition to any other provisions provided by law.

C. Any reference in The International Fire Code to "Chief", "Fire Marshal" or any other official shall be construed to mean the City Manager or the City Manager's designee.

D. The decision of the City Manager or designated official or inspector under this Chapter may be appealed to the Board of Appeals pursuant to procedures of Section 15.04.040 of the Delta Municipal Code.

E. Any violation of the provisions of this Chapter or the Codes adopted by reference herein is hereby declared to be a nuisance and may be abated in accordance with law.

F. In addition to any other remedies the City may have, it may maintain an action in a court of competent jurisdiction to enjoin any violation of any provision of this Chapter or of the Codes adopted herein by reference.

G. The City many refuse to issue any permits required by this Chapter or the Codes adopted by reference herein or by other City building regulations, if the applicant is in violation of any provisions of this Chapter or of the Codes adopted by reference herein. (Ord. 5, §5(part), 1994; Ord. 21, §5, 1999; Ord. 13, §5, 2004)

Chapter 15.08

LICENSES AND CONTRACTORS

Sections:

15.08.010 Licenses required.

A. It shall be unlawful for any person to perform electrical work for which a State license is required without such license.

B. It shall be unlawful for any person to perform plumbing work for which a State license is required without such license.

C. It shall be unlawful to engage in gas-fitting work without having been certified by the City as a gas fitter. Applications for such certification shall be made on forms supplied by the City and be accompanied by a certification fee in the amount of $10.00. All applicants will be required to take and pass a gas fitters certification examination prior to being certified. No certification shall be administered without proof of two years apprenticeship to a certified gas fitter. Such certification may be revoked with reasonable notice and hearing if the City Council finds the gas fitter has violated any of the provisions of this Title 15 or of the Codes adopted by reference herein. (Ord. 7, §1(part), 1986)

15.08.020 Contractors' responsibility. The City Council may revoke the right of any person to obtain any permit under this Title 15 for a period of up to two years if it determines, following reasonable notice and hearing, that such person has violated any of the provisions of this Title 15 or of the Codes adopted by reference herein. (Ord. 7, §1(part), 1986)

Chapter 15.12

RADIO AND TELEVISION INTERFERENCE

Sections:

15.12.010 Interference prohibited.

A. It shall be unlawful to use or operate any apparatus or device which creates unreasonable interference with the reception of radio or television signals by another.

B. Such interference is hereby declared to be a nuisance which may be abated in accordance with law. (Ord. 7, §1(part), 1986)

Chapter 15.16

CANOPY CONSTRUCTION

Sections:

15.16.010 Canopies and awnings permitted.

A. Canopies, awnings and like structures may be constructed or installed over the public right-of-way extending out from a building in a B-1 zoning use district, or for churches in any zoning district, if constructed, installed and maintained in accordance with the requirements of this Chapter and all other applicable City regulations.

B. A person desiring to construct or install any such structure shall submit an application to the City, including, if required by applicable regulations, the application for a building permit or any permits or licenses as may be required by City historical preservation regulations, public property design standards or other such regulations.

C. Construction may not proceed until a building permit and other applicable approvals and permits are approved by the City. (Ord. 9, §1(part), 1987)

15.16.020 Construction standards.

A. All canopies, awnings and other such structures shall be designed and constructed so that they do not impede or obstruct vehicular or pedestrian traffic and do not create site barriers which result in traffic hazards.

B. All structures shall be designed, installed and constructed in accordance with good engineering and construction practices and all applicable code requirements to insure that no safety hazard is created. The City may require certification by a registered professional engineer or architect of the structural integrity of any proposed design.

C. The lowest portion of any such structure, other than supports, shall be at least eight feet above the grade of sidewalk or right-of-way.

D. Unless otherwise approved, all canopies, permanent awnings or like structures in the B-1 zoning district may extend no closer than six feet from the curbline. Canopies, permanent awnings or like structures in other zoning use districts may extend no closer than twenty-four inches from the curbline. (Ord. 9, §1(part), 1987)

15.16.030 Design standards.

A. All structures to be installed and maintained above public property shall comply with applicable design standards as adopted by the City from time to time, including historical preservation regulations and other regulations.

B. All canopies, awnings and other similar structures shall be designed to be consistent and compatible with and to promote the historical architectural features of the buildings to which they are attached and, for those in the B-1 district, with the character of the B-1 district in general as such may be described in more detail in historical preservation or other City regulations. Such provisions shall apply to the materials used and the design to be approved. (Ord. 9, §1(part), 1987)

15.16.040 Maintenance requirements.

A. All canopies, awnings and other structures approved pursuant to these provisions or erected pursuant to prior provisions shall be maintained in good repair and in safe condition. Repairs or modifications shall be done only in accordance with the provisions of this Chapter as amended from time to time.

B. Advertising placed upon any canopy or awning shall be only as allowed by City sign and other regulations. (Ord. 9, §1(part), 1987)

15.16.050 Termination of right to maintain a canopy.

A. Canopies, awnings or other structures which do not meet the requirements of this Chapter and the design standards specified pursuant to 15.16.030, as such may be amended from time to time, may be maintained as is over City property if they were lawfully erected and maintained in accordance with applicable prior regulations subject to the following terms and conditions:

1. A permit is required pursuant to 15.16.010 for any material alteration in the structure and shall only be allowed if the alteration reduces the nonconforming features. Minor maintenance shall be allowed without a permit.

2. If a nonconforming canopy, awning or other such structure is damaged or destroyed, and the cost of repairing or replacing it exceed 50% of the value of the entire structure

after repair, such repair or replacement shall comply fully with the requirements of this Chapter.

3. If any canopy, awning or other similar structure is removed other than temporarily in the course of maintenance, it may be replaced only with a conforming structure.

B. No canopy, awning or other structure, whether approved pursuant to prior regulations or not, may be maintained over City property if it creates any traffic hazard or safety hazard or is not maintained in good repair and safe condition.

C. The City Manager, following reasonable notice and hearing, may terminate the right to maintain any canopy, awning or other structure over City property upon the determination that the structure is not being maintained or was not constructed in accordance with the applicable requirements of this Chapter or other City regulations. (Ord. 9, §1(part), 1987)

Chapter 15.20

SIDEWALK, CURB AND GUTTER CONSTRUCTION REQUIREMENTS

Sections:

15.20.010 Sidewalk, curb and gutter required.

A. No building permit shall be issued for any new construction in occupancy groups A through S, as defined in The Uniform Building Code, unless plans for the installation of curb, gutter and sidewalk, designed and located in accordance with City specifications, have been submitted and approved; provided, however, in those cases where grade or other specifications have not been established for sidewalk, curb and gutter, if security is provided as required in Section 15.20.020, immediate construction need not be required.

B. Following issuance of a building permit, except where security for construction has been provided, the curb, gutter and sidewalk shall be constructed in accordance with the plans as approved. No certificate of occupancy shall be issued until such curb, gutter and sidewalk have been completed in accordance with the approved plans and City specifications, except when security has been provided. Curb, gutter and sidewalk shall be required on all public street frontages of the property on which the building is constructed. (Ord. 7, §1(part), 1986; Ord. 31, §6, 2000)

15.20.020 Construction security.

A. In those cases where the immediate construction of curb, gutter and sidewalk is not feasible because of lack of grade or other specifications, the City shall require security adequate to guarantee the construction of such improvements within one year of the date that the City notifies the property owner or other party in interest of the grade requirements or other specifications. Such security shall be released upon construction of the required improvements in accordance with approved plans and City specifications and shall provide that in the event of the failure to complete the construction when required, the City may utilize such security for costs incurred by the City in constructing such improvements.

B. Such security shall be in an amount equal to 150% of the City's estimated cost to construct the improvements and may consist of the following, if applied in a form acceptable to the City:

1. Performance or contract bond
2. Cash escrow account deposit
3. Clean irrevocable letter of credit
4. Contract with first real estate lien
5. Agreement to execute a petition for the creation of an improvement district

(Ord. 7, §1(part), 1986)

Chapter 15.24

DEMOLITION REGULATIONS

Sections:

15.24.010 Demolition permit required.

A. It shall be unlawful to demolish any building larger than 600 square feet in area (other than fences, carports, exterior porches, or similar appurtenances) without first obtaining a demolition permit from the City.

B. Applications for permits shall be made on forms provided by the City and shall be accompanied by a permit fee of $15.00.

C. The permit may be revoked or suspended on account of failure to comply with the requirements of this Chapter. (Ord. 7, §1(part), 1986)

15.25.020 Safeguards.

A. The demolition site shall be properly protected by fences and other reasonably required safeguards as set forth in the current Uniform Building Code. It shall also be posted prohibiting trespassing on the premises. Demolition work may not commence until the City has inspected the fence and safeguards and approved them. Such fencing and safeguards shall be maintained throughout the work.

B. The work shall be performed in a good and workmanlike manner so that no nuisance is created off the premises and no safety hazards are created. Upon completion, the premises will be cleaned up and brought into compliance with all City junk, litter, and other applicable regulations. (Ord. 7, §1(part), 1986)

Chapter 15.30

EXCAVATION AND SEWER AND WATER LINE CONSTRUCTION REQUIREMENTS

Sections:

15.30.010 Permit required.

A. It shall be unlawful to excavate within any City street or other City-owned property, or to construct, or to repair, or to make any tap to any water or sewer main or appurtenant facility owned, controlled, or operated by the City without first obtaining a permit from the City.

B. Applications for permits shall be on forms provided by the City and shall be accompanied by a permit fee in the following amount: $30.00 (Ord. 7, §1(part), 1986)

15.30.020 Construction requirements.

A. All water and sewer construction work shall comply with all City standards and specifications.

B. All excavations shall be properly barricaded and marked at all times. Requirements of the Uniform Manual for Traffic Control Devices of the State of Colorado shall apply to excavations within streets.

C. No water and sewer work shall be covered or backfilled until the work has been inspected and approved by the City as complying with City requirements and specifications.

D. All excavations shall be backfilled in accordance with required City specifications. Street cuts shall be repaired in accordance with City standards and specifications (Ord. 7, §1(part), 1986)

Chapter 15.36

BUILDING MOVING PERMIT

Sections:

15.36.010 Moving permit required.

A. It shall be unlawful to move any structure or building within the City without obtaining a moving permit unless the structure and vehicle used will not extend more than 13 1/2 feet above the ground and will meet traffic law vehicle width limits.

B. Applications for moving permits shall be made on forms provided by the City, shall be submitted no later than five days in advance, and shall be accompanied by a permit fee in the amount of $10.00 and evidence of notification to Delta Montrose Electric Association, the telephone company, and the CATV company.

C. Following receipt of the application, the City shall inspect the proposed route and advise the applicant of the amount of a deposit to be applied toward the City's costs incurred in monitoring and accommodating the move, which deposit must be paid prior to issuing the permit.

D. The permit shall specify the route to be used and the times during which the operation shall be permitted.

E. In the event the City determines that the move will create any hazard, the City may require a bond or other adequate security sufficient to cover the cost of potential damages.

F. Following the move, the City's costs shall be deducted from the deposit and the balance refunded. If City costs exceed the deposit, the applicant shall remit the balance to the City. (Ord. 7, §1(part), 1986; Ord. 12, §1(part), 1989)

15.36.020 Requirements.

A. Any moving operations shall be conducted in a good and workmanlike manner and safeguards shall be instituted to protect public and private property.

B. All utility companies shall be notified of the proposed moved. Prior arrangements shall be made with such companies to move any utility facilities as necessary to accommodate the move.

C. The permittee shall be responsible for any damages caused by the move. (Ord. 7, §1(part), 1986; Ord. 12, §1(part), 1989)

Chapter 15.52

MOBILE HOME AND TRAVEL HOME REGULATIONS

Sections:

15.52.010 Definitions.

A. "MOBILE HOME" shall include manufactured structures intended for use as a dwelling, including factory built housing and mobile homes transportable on their running gear, except for vehicles, trailers and other structures, either registered or required to be registered, pursuant to Article 42-3 of the Colorado Revised Statutes.

B. "MOBILE HOME PARK" shall mean a single site, parcel or lot operated and used for the location of three (3) or more mobile homes intended for use as residences. Provided, however, that a residential subdivision actually approved for, and occupied by, no more than two (2) mobile homes on each platted lot or parcel within said subdivision shall not be deemed a mobile home park for purposes of this chapter.

C. "TRAVEL HOME" shall mean any movable or relocatable dwelling unit, other than a "mobile home" as defined above, commonly used for temporary dwelling, travel, recreation or other purposes including, but not limited to campers, motor homes, pick-up truck campers, RVs, trailers and trailer coaches.

D. "TRAVEL HOME PARK" shall mean a park or campground for the use of travel homes, including but not limited to campers,

motorhomes, pick-up truck campers, RVs, trailers and trailer coaches.

E. "MANUFACTURED STRUCTURE" shall mean a factory fabricated structure transportable to its place of use. (Ord. 13, §1, 1994; Ord. 37, §1, 2001; Ord. §9, 2008)

15.52.020 Use and location of mobile homes. Mobile homes may be used, occupied or located only in the following places:

A. Stored or displayed upon a lawful mobile home sales lot if unoccupied.

B. Used as a single family dwelling within an authorized space in a licensed mobile home park for which an occupancy permit has been issued, or if less than 400 square feet in floor area, in a licensed travel home park upon a designated space.

C. Used as a single family dwelling on an individual lot or tract in a use district which allows such use.

D. Located upon property for which a permit has been issued by the City for the temporary use of a mobile home pursuant to Section 15.52.040.

E. Used at a location where a mobile home is lawfully located, occupied or used at the effective date of this chapter, or date of annexation to the city, and continuously located, occupied or used thereafter; subject to the non-conforming use regulations of the City's Land Use Code. (Ord. 13, §1, 1994)

15.52.030 Use and location of travel homes.

A. Travel homes may be occupied as temporary dwellings only in the following circumstances:

1. Within a licensed travel home park upon a designated space.

2. Upon private property for temporary occupancy by out-of-town guests, for a period not to exceed thirty (30) days in any calendar year for any tract of property. Any travel home used in this manner must be located within the minimum setback requirements for the district in which it is placed.

3. Upon property for which a permit has been issued by the City pursuant to Section 15.52.040.

B. Travel homes may be parked, if unoccupied, upon private property within the setbacks, or temporarily upon public streets, if registered under State law and lawfully parked;

provided, however, they may not be parked to create a traffic hazard or parked on public property in substantially the same location for more than 36 hours. (Ord. 13, §1, 1994)

15.52.040 Permits for temporary location or occupancy of mobile homes or travel homes.

A. An application for a permit for the temporary location and use of a mobile home or travel home upon private property shall be made upon forms supplied by the City.

B. A permit for a period of up to six months may be issued only under the following circumstances by the City Manager:

1. For fire protection or security purposes in Industrial Districts.

2. At a construction site during the construction period for construction related purposes, including residential occupancy by a property owner on his own property, provided that all necessary taps have been purchased and a building permit issued which has not been revoked. Such permit shall terminate when a Certificate of Occupancy has been issued for the project.

3. For temporary dwelling purposes at carnivals, circuses, festivals or other civic events.

4. For a temporary sales office for subdivision lot or unit sales purposes during the initial subdivision development and sales period.

C. The City shall not issue any temporary permit, except for a use or location which complies with the criteria of this Section. Such permit may be revoked by the City Council after a hearing upon reasonable notice to the applicant for a violation of any of the provisions of this Section, or any other applicable ordinances or regulations of the City or State. (Ord. 13, §1, 1994; Ord. 9, §2, 2004)

15.52.050 Mobile home park development procedure.

A. It shall be unlawful to commence the construction of any mobile home park or the enlargement of an existing mobile home park until a mobile home park construction permit has been approved by the City Council as meeting the criteria and requirements of this Chapter and other applicable City and State regulations.

B. Application for a mobile home park construction permit shall be made by submitting an application on forms supplied by the City accompanied by a site plan of the proposed mobile home park and any supporting documents, plans or drawings necessary

to show that the design requirements of Section 15.52.060 will be complied with. The size and location of each existing mobile home shall be accurately shown.

C. The site plan and all supporting plans must be submitted to the City no later than thirty (30) days before the date at which the Planning Commission is to review the application. Following review of the application, the Planning Commission shall recommend approval, conditional approval, or disapprove the application. The reasons for disapproval shall be included in the Planning Commission minutes and provided to the applicant upon request. The application shall then be submitted to the City Council for review and action. The Council may approve the application, conditionally approve it, or disapprove the application if it finds that the requirements of these regulations have not been met.

D. It shall be unlawful to locate any mobile home within any mobile home park prior to the time that a license for the mobile home park, or applicable portion thereof, has been issued by the City Manager following an inspection to determine if the mobile home park, or the applicable portion thereof, has been developed in substantial conformity with the construction permit, plans and other documents as approved by the City Council.

E. An application fee as set by the City Council shall accompany the application for a mobile home park construction permit. (Ord. 13, §1, 1994; Ord. 9, §16, 2004)

15.52.060 Mobile home park design requirements.

A. Size and Location: Mobile home parks may be located only where allowed by the City Land Use Regulations and shall be a minimum of five (5) acres in area, unless adjacent to an existing mobile home park, with the aggregate area being over 5 acres. Mobile home parks containing 25 or more spaces shall abut a major or minor arterial street as designated in the City's Major Street Plan. Mobile home parks containing less than 25 spaces shall abut a collector street or larger street, as designated in the City's Major Street Plan.

B. All mobile home parks shall, as a minimum, comply with the Regulations for mobile home parks issued by the State of Colorado, and the requirements of this Chapter. In the event of any conflict between the State regulations and the requirements of this Chapter or other ordinances and regulations of the City, those regulations which are more stringent shall apply.

C. Dimensional Requirements:

1. Each mobile home space shall be shown on the site plan and may have only one mobile home located on it.

2. Each space shall have a minimum area of four thousand five hundred (4500) square feet.

3. Mobile home park internal setbacks for individual spaces shall be as follows:

a. Front setback shall be a minimum of fifteen feet (15');
b. Rear setbacks shall be a minimum of fifteen feet (15');
c. Side setbacks shall be a minimum of five feet (5').

4. Mobile home park external boundary setbacks shall be as follows:

a. Minimum park front setback shall be twenty-five feet (25'), except when the mobile home park fronts on a state highway; then the minimum shall be fifty feet (50').
b. Minimum park side set back shall be fifteen feet (15').
c. Minimum park rear set back shall be fifteen feet (15').

5. A minimum of two (2) off-street parking spaces per mobile home space shall be provided.

6. All mobile home spaces shall have access only to park internal streets.

7. 10% of the gross area of the mobile home park shall be developed and maintained as a park or playground.

D. The mobile home park developer shall provide the following improvements:

1. Water systems, including fire hydrants and adequately sized mains.

2. City sanitary sewer collection system.

3. Paved streets with a minimum paved width of thirty-six feet (36'), including the width of valley pans.

4. Storm drainage system.

5. Street signs, street lights.

6. Concrete valley pans three feet (3') in width and five foot (5') wide sidewalks shall be installed as a minimum on each side of each street.

7. All mobile home spaces shall be clearly marked and numbered and shall contain at a minimum a level graveled, paved or concrete area on which to place the mobile home which is designed to drain away from the mobile home, and contains the necessary anchors and tie-downs to secure the stability of the mobile home. Utility risers for each utility service and a yard hydrant are required for all mobile home spaces.

8. Storage facilities: Conveniently located storage buildings equal to at least sixty square feet per unit shall be provided to house additional personal possessions of park residents. This may be accomplished by provision of a centrally located storage building, or individual storage units on each mobile home space.

Storage areas for boats, travel trailers, campers and similar items shall be provided within the park. The minimum storage area shall equal one hundred square feet per mobile home space and shall be separated from view by fencing or landscaping.

E. Arrangements to provide public utilities including, if available, gas, electricity, telephone and cable television shall be made with the utility companies.

F. Plans for all improvements shall be submitted with the site plan. All required improvements shall comply with City design and construction standards and specifications.

G. Easements: The City may require reasonable utility easements to be dedicated to the public for the purpose of public and City utilities. The City may require the oversizing of any water and sewer lines, in which event the City shall pay for the cost of oversizing.

H. Screening: Fencing or vegetative screening may be required if the City Council determines a visual buffer is needed to provide separation from surrounding uses and help protect the property value of the existing neighborhood, or to improve the quality of the mobile home park.

I. Landscaping: A landscape plan shall be submitted which, at minimum, provides for the use of appropriate ground cover and vegetation to prevent erosion and reduce the creation of dust and mud, and shall include the use of other landscape materials to enhance the quality of life in the mobile home park.

J. No mobile home without toilet, lavatory and shower or bathing facilities shall be allowed in any mobile home park. (Ord. 13, §1, 1994; Ord. 6, §1, 1998)

15.52.070 Travel home park development procedure.

A. It shall be unlawful to commence construction of any travel home park or the enlargement of an existing travel home park until a travel home park construction permit has been approved by the City Council as meeting the criteria and requirements of this Chapter and other applicable City and State regulations.

B. Application for a travel home park construction permit shall be made on forms supplied by the City accompanied by a site plan of the travel home park and any supporting documents, plans or drawings as necessary to show that the design requirements of Section 15.52.080 will be met.

C. The site plan and all supporting plans must be submitted to the City no later than thirty (30) days before the date at which the Planning Commission is to review the application. Following review of the application, the Planning Commission shall recommend approval, conditional approval or disapproval of the application. If disapproved, the reasons for disapproval shall be included in the Planning Commission minutes and provided to the applicant upon request. The application shall then be submitted to the City Council for review and action. The Council may approve, conditionally approve or disapprove the application, if it finds that the requirements of these regulations have not been met.

D. It shall be unlawful to occupy any travel home within the travel home park prior to the time that a license for the travel home park, or applicable portion thereof, has been issued by the City Manager following an inspection to determine if the

travel home park, or the applicable portion thereof, has been developed in substantial conformity with the site plan as approved by the City Council. A travel home may only be occupied in an approved space.

E. An application fee as set by the City Council shall accompany the application for a travel home park development permit. (Ord. 13, §1, 1994)

15.52.080 Travel home park design requirements.

A. Size and Location: Travel home parks may be located only where allowed by City Land Use Regulations and shall be a minimum of two (2) acres in area.

B. All travel home parks shall, as a minimum, comply with applicable State of Colorado regulations for campgrounds and recreation areas, and the requirements of this chapter. In the event of any conflict between State regulations and the requirements of this chapter or other City ordinances or regulations, those regulations which are more stringent shall apply.

C. Dimensional Requirements:

1. All travel homes and any accessory structures must be kept at least fifteen feet (15') from any other travel home and accessory structure.

2. Travel home park external boundary setbacks shall be as follows:

a. Minimum park front setback shall be twenty-five feet (25') except when the travel home park fronts on a state highway; then the minimum shall be fifty feet (50').

b. Minimum park side setback shall be fifteen feet (15').

c. Minimum park rear setback shall be fifteen feet (15').

3. The number of travel homes in the park shall not exceed twenty (20) travel homes per acre.

4. All travel home spaces shall be clearly marked and numbered and shall contain a minimum of 1500 square feet.

D. Ten percent (10%) of the gross area of the travel home park shall be developed and maintained as a park or playground.

E. The travel home park developer shall provide the following improvements:

1. A water system, including fire hydrants and adequate mains.

2. A sanitary sewer collection system.

3. Paved streets with a minimum width as follows:
   a. One way/parking on one side - 20 feet;
   b. Two way/no parking - 24 feet;
   c. Two way/parking on one side - 30 feet; and
   d. Two way/parking on both sides - 36 feet.

4. A storm drainage system.

5. Street signs and security lights.

6. A service building meeting the requirements of applicable State and City regulations.

F. Plans for all improvements shall be submitted with the site plan. All required improvements shall comply with standard City design and construction standards and specifications.

G. Easements: The City may require reasonable utility easements to be dedicated to the public for the purpose of public
and City utilities. The City may require the oversizing of water

and sewer lines in which event the City shall pay the cost for oversizing.

H. Fencing or vegetative screening may be required if the City Council determines a visual buffer is needed to provide separation from surrounding uses, help protect the property values of the existing neighborhood, and improve the quality of the travel home park.

I. Landscaping: A landscape plan shall be submitted which at a minimum provides for the use of appropriate ground cover and vegetation to prevent erosion and reduce the creation of dust and mud, and includes the use of other landscape

materials to enhance the quality of life in the travel home park. (Ord. 13, §1, 1994)

15.52.090 Mobile home and travel home park licensing requirements.

A. It is unlawful to maintain or operate any travel home park or mobile home park with three or more spaces, travel homes or mobile homes within the City limits, unless a license has been issued in accordance with this Section.

B. All existing mobile home parks or travel home parks with three or more spaces, travel homes or mobile homes shall have ninety (90) days to obtain a license following the effective date of this Section, or following annexation to the City. As part of the initial license, an occupancy permit shall be issued for each mobile home lawfully located within a mobile home park at the effective date of this Section or of annexation. Nothwithstanding the fact that mobile home parks or travel home parks with only two sites, or mobile homes or travels homes are not subject to this licensing requirement, such mobile home parks or travel home parks shall comply with all other applicable provisions of this Chapter.

C. An application for a license shall be made on forms provided by the City and shall include a scale map of the park showing all existing spaces, structures, streets, utilities and all other facilities. Physical characteristics of the site including topography, floodplains and other significant site features should be shown. Said map shall be on a scale of not less than 1 inch equals 40 feet. The size and location of each existing mobile home shall be accurately shown.

D. No license shall be issued until an inspection is made by the City and it is determined that the applicable requirements of this Section and other City and State regulations are met.

E. Following a hearing, preceded by reasonable notice to licensee, any license issued pursuant to this Section may be revoked if the City Council determines that a violation of this Chapter or other applicable City regulations exists.

F. The license fee for each mobile home or travel home space shall be set by the City Council.

G. This license shall not be transferable to any new park owner. (Ord. 13, §1, 1994; Ord. 31, §4, 2000; Ord. 9, §16, 2004)

15.52.100 Non-conforming mobile home and travel home parks.

A. All mobile home parks and travel home parks shall be maintained in accordance with the requirements of this chapter, applicable State of Colorado Department of Health regulations and other applicable regulations of the City of Delta, Colorado.

B. Any mobile home park or travel home park, which on March 1, 1994, or at the time of annexation, if annexed subsequently thereto, was lawfully existing and maintained in accordance with previously applicable State, County or City regulations and ordinances, but which does not conform or comply with all of the regulations provided for in this Chapter, may be continued to be maintained or used, but shall not be enlarged, modified or repaired except in conformity with this Section. Provided further, spaces in an existing mobile home park lawfully used or designated for travel homes on the effective date of this Section, may continue to be so used, and spaces in an existing travel home park lawfully used or designated for mobile homes on the effective date of this Section may continue to be so used. Any mobile home park or travel home park which was previously unlawful or illegal under previously applicable regulations shall remain unlawful or illegal and subject to abatement or other enforcement action.

C. If the park is not operated for any 10 month period, it may not thereafter be operated until it is brought into conformity this Section.

D. No mobile home or travel home may be placed onto any space which will create or increase any non-conformity with this chapter.

E. 1. Notwithstanding the provisions of Subsection B, lawful non-conforming mobile home or travel home parks existing as of March 1, 1994, may be expanded one time to add an additional number of spaces equal to 30% in accordance with this subsection.

2. The City Council may allow deviations from the design standards of Subsection 15.52.060(C)(2) and (7), (D)(3), (6), (8) or 15.52.080(D) and (E)(3) if it determines that the following criteria are met:

a. The deviations are compatible and consistent with the existing park,

b. The deviation will not be inconsistent with the public health, safety and welfare, and

c. The deviation will not adversely affect the health, safety and welfare of the park customers.

All other requirements of this chapter shall be met. (Ord. 13, §1, 1994)

15.52.110 Operation and maintenance of mobile home and travel home parks.

A. The park owner shall provide adequate and competent supervision and management to ensure that the park is maintained and operated in conformance with this chapter, State regulations and other ordinances and regulations of the City of Delta.

B. The park owner of every mobile home or travel home park shall be responsible for maintaining all facilities of the park in good repair and in safe, clean and sanitary condition. (Ord. 13, §1, 1994)

15.52.120 Administration and enforcement.

A. The City Manager or designated representative shall have the right to enter upon any mobile home park or travel home park at any reasonable time for the purpose of inspecting the premises to determine compliance with this chapter or other applicable ordinances and City and State regulations.

B. It shall be unlawful for any person to violate any provision of this Chapter.

C. Any person convicted of a violation of any of the provisions of this Chapter may be sentenced to a fine of not more than one thousand dollars ($1,000.00), or by a term of imprisonment not to exceed one (1) year, or by both such fine and imprisonment; provided, however, no person under the age of eighteen (18) years may be sentenced to any term of imprisonment in excess of ten (10) days. Each day during which any violation is committed or permitted to continue shall be considered to constitute a separate offense.

D. Any violation of the provisions of this chapter is hereby declared to be a nuisance and may be abated in accordance with law.

E. In addition to any other remedies the City may have, it may maintain an action in a court of competent jurisdiction

to enjoin any violation of or compel compliance with any provision of this chapter.

F. The City may refuse to issue any permits required by City ordinance or grant water or sewer taps if the applicant is in violation of any of the provisions of this chapter. (Ord. 13, §1, 1994; Ord. 18, §2 & §3, 1997)

Chapter 15.56

FLOOD DAMAGE PREVENTION

Sections:

ARTICLE I. PURPOSE AND DEFINITIONS

15.56.010 Statutory authority. The Legislature of the State of Colorado has in C.R.S. 31-15-101 delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the City Council does ordain the provisions as set out in this Chapter. (Ord. 1, §1(part), 1984)

15.56.020 Findings of fact.

A. The flood hazard areas of the City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss. (Ord. 1, §1(part), 1984)

15.56.030 Purpose. It is the purpose of this Chapter to promote the public health, safety and welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

A. To protect human life and health;

B. To minimize expenditure of public money for costly flood control projects;

C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. To minimize prolonged business interruptions;

E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

F. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;

G. To ensure that potential buyers are notified that property is in an area of special flood hazard; and

H. To ensure that those who occupy the special flood hazard areas assume responsibility for their actions. (Ord. 1, §1(part), 1984)

15.56.040 Methods of reducing flood losses. In order to accomplish its purposes, this Chapter includes methods and provisions for:

A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

B. Requiring that uses vulnerable to flood, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Controlling the alteration and natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;

D. Controlling filling, grading, dredging and other development which may increase flood damage; and

E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 1, §1(part), 1984)

15.56.050 Definitions. Unless specifically defined in this Section, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application:

A. "Appeal" means a request for a review of the community development director's interpretation of any provisions of this Chapter or a request for a variance.

B. "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

C. "Base flood" means the flood having a one-percent chance of being equalled or exceeded in any given year.

D. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

E. As used in this Chapter, "existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the City.

F. As used in this Chapter, "expansion to existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

G. As used in this Chapter, "flood" or "flooding" means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:

a. the overflow of inland or tidal waters.

b. the unusual and rapid accumulation or runoff of surface waters from any source.

c. mudslides (i.e. mudflows) which are proximately caused by flooding as defined in paragraph 1(a) of

this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in 1(a) of this subsection.

H. "Flood Insurance Rate Map" or "FIRM" means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

I. "Flood Insurance Study" means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

J. “Flood Proofing” means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

K. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

L. “Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

M. As used in this Chapter, "manufactured home" means a structure, transportable in one or more sections, which is built

on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

N. "New construction" means a structure for which the start of construction commences on or after the effective date of the ordinance codified in this Chapter.

O. As used in this Chapter, "manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

P. As used in this Chapter, "start of construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L 97-348) including substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Q. "Structure" means a walled and roofed building or manufactured home that is principally above ground.

R. As used in this Chapter, "substantial improvement" means any rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the

local code enforcement official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of a "historic structure."

S. "Variance" means a grant of relief from the requirements of this Chapter which permits construction in such a manner that would otherwise be prohibited by ordinance.

T. “Violation” means the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

U. As used in this Chapter, "administrator" means the Federal Emergency Management Agency (FEMA) and "community development director" means the building official or other City employee designated by the City Manager.

V. As used in this Chapter, "new manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of flood plain management regulations adopted by the City.

W. As used in this Chapter, "recreational vehicle" means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreation, camping, travel, or a seasonal use.

X. As used in this Chapter, "substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Y. As used in this Chapter, "The Board of Adjustments and Appeals" shall mean the City Planning Commission and "Community

Development Director" shall mean the "City Manager" or his designees." (Ord. 1, §1(part), 1984; Ord. 7, §1, 1989; Ord. 6, §1, 1990; Ord. 1, §1, 2010)

ARTICLE II. GENERAL PROVISIONS

15.56.060 Applicability. This Chapter shall apply to all areas of special flood hazards within the jurisdiction of the City. (Ord. 1, §1(part), 1984)

15.56.065 Severability. If, for any reason, any Section of this Chapter 15.56, or any part thereof, is determined to be invalid or unenforceable by a Court of competent jurisdiction, no part of the remainder of said Chapter shall be affected by such determination, and all of such remainder shall continue to be enforceable as written, it being intended that the invalid part be considered severable from said remainder. (Ord. 1, §2, 2010)

15.56.070 Flood insurance study and rate map. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study Delta County, Colorado and Incorporated Areas" bearing an effective date of August 19, 2010 with an accompanying Flood Insurance Rate Map is adopted by reference and declared to be a part of this Chapter. The Flood Insurance Study is on file at the Delta City Hall, 360 Main Street, Delta, Colorado 81416." (Ord. 1, §1(part), 1984; Ord. 6, 1991; Ord. 1, §3, 2010)

15.56.080 Compliance. No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Chapter and other applicable regulations. (Ord. 1, §1(part), 1984)

15.56.090 Abrogation and greater restrictions. This Chapter is not intended to repeal, abrogate or impair any existing easement, covenants or deed restrictions. However, where this Chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 1, §1, 1984)

15.56.100 Interpretation. In the interpretation and application of this Chapter, all provisions shall be:

A. Considered as minimum requirements;

B. Liberally construed in favor of the governing body; and

C. Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 1, §1(part), 1984)

15.56.110 Warning and disclaimer of liability. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result in reliance on this Chapter or any administrative decision lawfully made thereunder. (Ord. 1, §1(part), 1984)

ARTICLE III. ADMINISTRATION

15.56.120 Development permit. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 15.56.080. Application for a development permit shall be made on forms furnished by the Community Development Director and may include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

A. Elevation in relation to mean sea level of the lowest floor, including basement, of all structures;

B. Elevation in relation to mean sea level to which any structure has been floodproofed;

C. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 15.56.290; and

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 1, §1(part), 1984)

15.56.130 Community Development Director--Designated. The Community Development Director is appointed to administer and implement this Chapter by granting or denying development permit applications in accordance with its provisions. (Ord. 1, §1(part), 1984)

15.56.140 Community Development Director--Duties generally. Duties of the Community Development Director shall include but not be limited to those set forth in Section 15.56.150 through 15.56.190. (Ord. 1, §1(part), 1984)

15.56.150 Permit review. Duties of the Community Development Director shall include by not be limited to the following:

A. Review all development permits to determine that the permit requirements of this Chapter have been satisfied;

B. Review all development permits to determine that all necessary permits have been obtained from Federal, state or local governmental agencies from which prior approval is required;

C. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 15.56.310(A) are met. (Ord. 1, §1(part), 1984)

15.56.160 Use of other base flood data.

A. When base flood elevation data has not been provided in accordance with Section 15.56.070 above, the Building Official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from any Federal, state or other source as criteria for requiring that new construction, substantial improvements, or other development in Zone A are administered in accordance with these regulations.

B. For newly annexed areas of the City which are not shown on the maps or in the study adopted in Section 15.56.070, the flood insurance study for Delta County, Colorado, as adopted by the Federal Emergency Management Agency, the Colorado Water Conservation Board and Delta County, along with its related maps, is hereby adopted for the purpose of the administration and enforcement of these regulations in such areas until amendments to the City maps and study can be adopted. (Ord. 1, §1(part), 1984; Ord. 7, §9, 1989)

15.56.170 Information to be obtained and maintained. Duties of the Community Development Director shall include but not be limited to the following:

A. Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement, of new or substantially improved structures;

B. For all new or substantially improved floodproofed structures:

1. Verify and record the actual elevation in relation to mean sea level; and

2. Maintain the floodproofing certifications required in Section 15.56.120(C);

C. Maintain for public inspection all records pertaining to the provisions of this Chapter. (Ord. 1, §1(part), 1984)

15.56.180 Alteration of watercourses. Duties of the Community Development Director shall include but not be limited to the following:

A. Notify adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;

B. Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished. (Ord. 1, §1(part), 1984)

15.56.190 Interpretation of FIRM boundaries. Duties of the Community Development Director shall include but not be limited to making interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards; for example, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Article IV of this Chapter. (Ord. 1, §1(part), 1984)

ARTICLE IV. VARIANCE PROCEDURE

15.56.200 Appeal board.

A. The Board of Adjustments and Appeals as established by this Code by the City Council shall hear and decide appeals and requests for variances from the requirements of this Chapter.

B. The Board of Adjustments and Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision of determination made by the Community Development Director in the enforcement or administration of this Chapter.

C. In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter, and:

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

7. The compatibility of the proposed use with the existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

D. Upon consideration of the factors of subsection C of this Section and the purposes of this Chapter, the Board of Adjustments and Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.

E. The Board of Adjustments and Appeals shall maintain the records of all appeal actions and report any variances to

the Federal Emergency Management Agency upon request. (Ord. 1, §1(part), 1984)

15.56.210 Conditions for variances.

A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures below the base level, providing the provisions of Section 15.56.200(C) have been fully considered. As the lot size increases beyond the one-half acre, the technical justifications required for issuing the variance increases.

B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this Section.

C. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

E. Variances shall only be issued upon:

1. A showing of good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 15.56.200(C), or conflict with existing local laws or ordinances.

F. Records shall be maintained of all variance actions including justification of their issuance and shall be included in the annual report submitted to the Federal Emergency Management Agency. The applicant for a variance which is granted shall be given written notice that (i) the structure will be permitted to be built with the lowest floor elevation below the base flood elevation and that the cost of flood insurance will be increased commensurate with the increased risk resulting from the reduced lowest floor elevation, as high as

$25.00 per $100.00 of insurance coverage; and (ii) that such construction increases risk to life and property. Copies of such notice shall be kept by the City. (Ord. 1, §1(part), 1984; Ord. 7, §8, 1989)

ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION GENERAL STANDARDS

15.56.220 Generally. In all areas of special flood hazards, the standards set out in this Article are required. (Ord. 1, §1(part), 1984)

15.56.230 Anchoring.

A. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.

B. All manufactured homes to be placed within such flood plains shall be installed using methods and practices which minimize flood damage and shall be elevated and anchored to resist flotation, collapse or lateral movements. Methods of anchoring may include but are not limited to the use of over the top or frame ties to ground anchors. The requirements of this paragraph (B) shall not apply when the grade of the ground itself has been elevated by compacted fill above the elevation of the base flood. Special requirements shall be that:

1. Over the top ties be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations, with manufactured homes less than fifty feet (50') long requiring one additional tie per side.

2. Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points, with manufactured homes less than fifty feet (50') long requiring four (4) additional ties per side.

3. All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds.

4. Any additions to the manufactured home be similarly anchored.

5. In lieu of the special requirements of subsections 1, 2, and 3 above, an alternative anchoring system may be used if a licensed professional engineer certifies or technical evaluation demonstrates that such system adequately

anchor the manufactured home with respect to base flood discharge.

C. All recreational vehicles placed on sites within Zones A1-20, AH, and AE on Delta's FIRM shall:

1. Be on site for fewer than 180 consecutive days AND be fully licensed and ready for highway use; OR

2. Be elevated, anchored and certified as per Article III of this Chapter (15.56). (Ord. 1, §1(part), 1984; Ord. 7, §2, 1989; Ord. 1, §4, 2010)

15.56.240 Construction materials and methods.

A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage and with electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage. (Ord. 1, §1(part), 1984; Ord. 7, §3, 1989)

15.56.250 Utilities.

A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

B. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

C. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. 1, §1(part), 1984)

15.56.260 Subdivision proposals.

A. All subdivision proposals shall be consistent with the need to minimize flood damage.

B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

D. Base flood elevation data shall be provided with subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) which contain at least fifty (50) lots or five (5) acres, whichever is less. (Ord. 1, §1(part), 1984; Ord. 7, §4, 1989)

ARTICLE VI. PROVISIONS FOR FLOOD HAZARD REDUCTION SPECIFIC STANDARDS

15.56.270 Generally. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 15.56.070 or Section 15.56.160, the provisions set out in this Article are required. (Ord. 1, §1(part), 1984)

15.56.280 Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above base flood elevation. (Ord. 1, §1(part), 1984)

15.56.290 Nonresidential constructions. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or, together with the attendant utility and sanitary facilities, shall:

A. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

C. Have structural design specifications and plans for the construction developed and/or reviewed by a registered professional engineer or architect who shall certify that the design and methods of practice for meeting applicable provisions of this Section. Such certification including elevations to which the structure is floodproofed shall be provided to the Building Official. (Ord. 1, §1(part), 1984; Ord. 7, §5, 1989)

15.56.300 Manufactured homes.

A. All manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on

which a manufactured home has incurred "substantial damage" as a result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

B. All manufactured homes to be placed or substantially improved on sites in existing manufactured home parks or subdivisions within Zones A1-30, AH and AE that are not subject to the provisions of the previous paragraph shall be elevated so that either (i) the lowest floor of the manufactured home is at or above the base flood elevation, or (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements that are not less than 36 inches in height above grade, and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

C. Manufactured homes shall be anchored in accordance with Section 15.56.230. (Ord. 1, §1(part), 1984; Ord. 7, §5, 1989; Ord. 6, §2, 1990)

15.56.305 Below-grade residential crawlspace construction.

A. New construction and substantial improvement of any below-grade crawlspace shall:

1. Have the interior grade elevation that is below base flood elevation no lower than two feet below the lowest adjacent grade;

2. Have the height of the below-grade crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall, not exceed four feet at any point;

3. Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood;

4. Be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads;

5. Be constructed with materials and utility equipment resistant to flood damage;

6. Be constructed using methods and practices that minimize flood damage;

7. Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

8. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

b) The bottom of all openings shall be no higher than one foot above grade;

c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. (Ord. 1 §1, 2002)

ARTICLE VII. FLOODWAYS

15.56.310 Generally. Located within areas of special flood hazard established in Section 15.56.070 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

A. Prohibit encroachments, including fill, new construction, substantial improvements and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

B. If the provisions of subsection A of this Section are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V of this Chapter. (Ord. 1, §1(part), 1984; Ord. 7, §7, 1989)

Chapter 15.60

LEGISLATED VESTED PROPERTY RIGHTS

Sections:

15.60.010 Purpose. The purpose of this Chapter is to provide procedures and regulations necessary to implement a program of legislated vested rights similar, but not necessarily identical, to that called for by the provisions of Article 68 of Title 24, C.R.S. The provisions of said Article 24-68, to the extent inconsistent with the provisions of this Chapter, including but not necessarily limited to the provisions of Section 24-68-102.5(1), are hereby superceded. (Ord. 27, §1, 1999)

15.60.020 Definitions and general provisions.

A. As used in this Section, "Site Specific Development Plan" means a plan approved by the City pursuant to this Section which has been submitted to the City by a landowner or his representative describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. Such plan shall consist of one or more of the following:

1. An approved Final Planned Unit Development Plan;
2. An approved Subdivision Final Plat;
3. An Approved Conditional Use;
4. An approved change in a non-conforming use; or
5. Annexation Agreements or Development Agreements executed by the City which specifically provide that they should be part of a Site Specific Development Plan.
6. An approved Mobile Home or Travel Home Park Construction Permit.

B. Neither a Sketch Plan, a Preliminary Subdivision Plat nor a preliminary PUD plan may qualify as a Site Specific Development Plan. An approved zoning variance, final architectural plans, public utility filings, or final construction drawings and related documents and methods for construction of improvements shall not, in and of itself, constitute a Site Specific Development Plan, although it may be an additional element of a Site Specific Development Plan which is specified in subsection (A) above.

C. A Site Specific Development Plan for any development shall include all of the items identified in paragraphs (A) and (B) above, to the extent applicable to the development.

D. None of the items identified in paragraphs (A) and (B) shall be considered a Site Specific Development Plan until approved, pursuant to the procedures of this Section in addition to the procedures applicable to such individual items. Such procedures may be pursued contemporaneously. (Ord. 27, §1, 1999)

15.60.030 Procedures.

A. A landowner desiring approval of a Site Specific Development Plan shall submit an application therefore on forms provided by the City indicating each element of such plan and shall submit a copy of each element as approved by the City together with any other information necessary to determine with reasonable certainty the type and intensity of use for the property.

B. Accompanying such application shall be application fee in the amount of $50.

C. Upon receipt of a properly completed application with fee, the City shall schedule a public hearing and publish notice thereof.

D. Following the Hearing, the City Council may approve the Site Specific Development Plan if it is consistent with the requirements of this Section.

E. Following approval, the City shall cause a Notice describing generally the type and intensity of the use approved, and the description of the property affected. Such notice shall not be published more than fourteen days after approval.

F. The Site Specific Development Plan shall be deemed approved upon the effective date of the City Council's action. In the event amendments to any of the elements of the Site Specific Development Plan are subsequently proposed and approved, the effective date of such amendments for purposes of the duration of vested property rights shall be the date of approval of the original Site Specific Development Plan. (Ord. 27, §1, 1999)

15.60.040 Limitations.

A. Approval of a Site Specific Development Plan pursuant to this Chapter shall be deemed to create a vested property right which shall be subject to the provisions and limitations of 24-68-103(1)(b) and (c), 104 and 105, C.R.S., except to the extent inconsistent with any provision of this Chapter.

B. Failure of any landowner to request a hearing and approval of various elements of the development plan as a Site Specific Development Plan shall constitute a waiver and no vested right shall be deemed to have been created by the City's approval of such elements.

C. Approval of a Site Specific Development Plan may be revoked by the City Council following notice and hearing on account of breach of any condition of approval of the various elements of the plan or of any ordinance or regulation of the City applicable to the various approvals or the various elements of the plan.

D. The provisions of all duly adopted zoning ordinances and other land use and development ordinances and regulations and master plans, as amended from time to time, shall apply in accordance with their terms, to all property and pending applications and proceedings except to the extent otherwise specifically provided in the adopting legislation, and except to the extent otherwise provided for an approved site specific development plan pursuant to Subsection (A) above. (Ord. 27, §1, 1999)

Title 16

SUBDIVISIONS AND ANNEXATIONS

Chapters:

Chapter 16.04

SUBDIVISION REGULATIONS

Sections:

16.04.010: GENERAL PROVISIONS:

(A) This Chapter as amended from time to time may be cited and referred to as the City's Subdivision Regulations.

(B) The purposes of these subdivision regulations are to promote and protect public health, safety and welfare; to encourage the harmonious, orderly and progressive development of land; to insure the development of economically sound and compatible neighborhoods; to require the construction of necessary improvements and utilities; to insure safe and convenient circulation of vehicular and pedestrian traffic; to insure that parks, open spaces, school sites and land needed for other public purposes are either reserved or dedicated; to insure development is in accordance with the requirements of the City's Comprehensive Plan as such may be amended from time to time; and to insure that new development bears its fair share of

(C) The City Council shall set all fees related to subdivisions under this Chapter. (Ord. 5, §1, 2004)

16.04.015: JURISDICTION:

(A) These Subdivision Regulations shall apply to all land located within the City of Delta, and to lands lying within Tier One in accordance with the City/County Growth Management Agreement, and limited with reference to the City's Major Street Plan, also other land lying within three miles of the corporate limits of the City of Delta which is not located in any other municipality. (Ord. 5, §1, 2004)

16.04.020: INTERPRETATION:

(A) In interpreting and applying the provisions of the subdivision regulations, they shall be regarded as the minimum required for the protection of the public health, safety and welfare and shall be liberally construed to further the purposes as specified in Section 16.04.010 above.

(B) Whenever a provision of these subdivision regulations and any other provision found in another City ordinance contain any restrictions or regulations covering the same subject matter, whichever restriction or regulation is more restrictive or imposes a higher standard or requirement shall govern.

(C) The word "shall" is mandatory. The word "may" is permissive.

(D) Words used in the present tense include the future; words used in the singular include the plural; and words of one gender include all other genders, unless the context clearly indicates the contrary. (Ord. 5, §1, 2004)

16.04.030: DEFINITIONS: For purposes of this Chapter, the following definitions shall apply:

ALLEY: A strip of land dedicated to public use, located at the side or rear of lots and providing a secondary means of vehicular access to the property.

BUILDING LINE: A line parallel to the property line beyond which no exposed portion of a building extends, other than the roof overhang, either delineated by these standards or zoning setback regulations.

CITY: The City of Delta and any authorized officer or employee thereof.

DELTA CONTROL SYSTEM:

1. "Horizontal control" is a system of plane coordinates which has been established by the City for the purpose of defining and stating the positions or the locations of points on the surface of the earth within the City of Delta and surrounding area.
2. "Vertical control" is a vertical elevation system based on NGVD 29 datum which has been established by the City for vertical control within the City of Delta and surrounding area.
3. "Delta Control System Map" is a map on file at the Delta Community Development Department showing the location, coordinates, and vertical elevation of the Delta Control System or control stations.

LOT: A parcel of land in a subdivision intended for transfer of ownership or for building development

OUTLOT: A lot or lots representing the remaining aggregate of unsubdivided land in those instances where large parcels of land are subject to existing uses or development, and may be subject to future subdivision as part of a phased development.

PERSON: Any individual, firm, partnership, association, syndicate, corporation, trust or any other entity.

SIDEWALK: Improvements intended for pedestrian, bicycle and non-motorized traffic including sidewalks, trails, bikepaths, recreation paths and similar facilities.

SUBDIVIDE: Any act which is intended to, or does, result in the creation of a subdivision.

SUBDIVIDER: A person who subdivides.

SUBDIVISION or
SUBDIVIDED LAND: A parcel of land which is divided into two or more parcels, lots, tracts or other interests including condominiums; townhouses, other common interest ownership properties; and any act creating such results. Provided, however, the following shall not be considered to be a subdivision for the purpose or application of these regulations:

(A) A division of land which creates cemetery lots;

(B) The creation of separate but undivided interests in a tract of land such as joint tenancy, tenancy in common, tenancy in entirety, trust, lien, mortgage, deed of trust or other security interest, unless such separate interests apply to less than all of the tract;

(C) An interest severing the oil, gas, minerals or water from the surface estate;

(D) Creation of a utility easement or an easement unrelated to the use of the surface;

(E) Any division of property created by official acts of the City, including but not limited to partial acquisitions and conveyances of land, partial annexations of land, easements and public rights-of-way. (Ord. 5, §1, 2004)

16.04.040: ENFORCEMENT:

(A) It shall be unlawful for any person to subdivide any land within the City of Delta whether by sale, conveyance, gift, delivery or recording of a plat, deed or other legal instrument or by any other means except in accordance with the provisions of this Chapter.

(B) Any person convicted of a violation of any provision of this Chapter may be punished by a fine not to exceed one thousand dollars ($1,000.00) or by a jail sentence for a period not to exceed one (1) year or by both such fine and imprisonment; providing however, that no person under the age of eighteen (18) years may be sentenced to any term in jail in excess of 10 days.

(C) The City may withhold building or occupancy permits with respect to any lot or tract of land which has been subdivided in violation of the provisions of this Chapter.

(D) In addition to any other remedy that the City may have, the City may maintain an action in a court of competent jurisdiction for an order to enjoin any violation of this Chapter.

(E) It shall be unlawful to sell any tract of land, including an entire platted lot or separately described tract, if a violation of the applicable dimensional requirements of the City's Zoning Regulations will result from such sale by virtue of a change in dimensions of any building site.

(F) A separate offense shall be deemed committed each day on which a violation of this Chapter continues. Continuing violations of this Chapter are declared to be a nuisance. (Ord. 5, §1, 2004)

16.04.050: SUBDIVISION PROCEDURE:

(A) The subdivision of land shall be accomplished in accordance with the procedures provided in this Section, except as modified pursuant to Sections 16.04.090, 16.04.100, 16.04.110, and 16.04.115.

(B) Informal Review: The subdivider is encouraged to consult informally with the City prior to the submission of the subdivision application. Prior to submitting a sketch plan or other initial submittal, the subdivider shall make his intentions known to the City by informally discussing plans, City Standards and other issues which may affect development. The City will offer general comments and direction regarding feasibility and design of the proposed subdivision at this stage. No fee shall be required for such review or discussions of any plans or data concerning the proposed subdivision prior to sketch plan review. The City shall not be bound by virtue of any discussions during the informal review stage.

(C) Sketch Plan:

(1) The proposal shall be consistent with the City standards and will be reviewed considering the following at a minimum:

(a) Conformance with the Comprehensive Plan and zoning regulations;

(b) Relationship of development to topography, soils, drainage, flooding, potential natural hazard areas and other physical characteristics;

(c) Availability of water, means of sewage collection and treatment, access and other utilities and services; and

(d) Compatibility with the natural and built environments, wildlife, vegetation and unique natural features.

(2) A subdivider who does not intend to proceed presently with full development of all the tracts involved shall nonetheless submit a sketch plan for the entire property showing present plans for its eventual development.

(3) Following informal review except when not required by other provisions of this Chapter, fifteen copies of the sketch plan shall be filed along with five copies of supporting plans and data, accompanied by an application and a filing fee in the amount set by City Council. Only one copy will be required if the sketch plan is executed in black and white only, and paper size is 11" X 17" or smaller. Plans shall be stapled or otherwise bound, and

folded. Plans which substantially conform to the submittal requirements must be received a minimum of twenty-five (25) days prior to a regularly scheduled Planning Commission meeting in order to be placed on the next agenda.

(4) The sketch plan review shall be commenced only upon submittal of a completed sketch map, a completed sketch plan application form, deed, appropriate fees, and all required supplemental information as set out below. All submittals must be legible, and may be on multiple pages, as needed for clarity.

(a) Sketch Map: The sketch map shall include the following:

(i) A vicinity map, drawn at a legible scale, showing the project location, with appropriate reference to significant roads or highways, and City Boundaries.

(ii) A detailed map showing property boundaries of the subdivision, north arrow and date. The map shall include the name of the subdivision. The scale of the sketch map shall not be less than one inch equals two hundred feet. The map shall show zoning and land use of all lands within one hundred feet of any property boundary owned by or under option to the subdivider. In the case of large subdivisions requiring more than one sheet at such a scale, an index map showing the total area on a single sheet at an appropriate scale shall also be submitted.

(iii) A conceptual drawing of the lot and street layout indicating the approximate dimensions, area and number of individual lots and access to the property. Proposed street names should be included.

(iv) Existing significant natural and manmade features on the site, such as streams, lakes, natural drainageways; vegetation types including locations of wooded areas; wildlife habitats; visual impacts; existing buildings; utility lines; septic systems; irrigation and other ditches; bridges and similar physical features; and existing development on adjacent property.

(v) Total acreage of the tract.

(vi) Existing and proposed zoning district boundary lines.

(vii) Proposed uses including residential types, commercial, industrial, parks, open space and community facilities.

(viii) Type and layout of all proposed infrastructure including streets, utilities, water and sewer systems.

(ix) Existing and proposed storm-water facilities pertaining to the property.

(x) Provision for sufficient off-street parking and adequate school bus stop, and mail box locations where applicable.

(xi) Existing site problems or peculiarities, such as poor drainage, flood plain, wetlands or natural and geologic hazards and seepage water.

(xii) Public use and other areas proposed to be dedicated to the City or conveyed to an Owner's Association and the proposed use of such areas.

(xiii) Existing utility, access, irrigation and other easements.

(b) Sketch Plan Application: The sketch Plan Application for all major subdivisions shall include, but not be limited to, the following information pertaining to the proposed subdivision (this information may be provided in a narrative format):

(i) Total number of proposed dwelling units.

(ii) Water supplier, if not the City, and estimated total number of gallons per day of water system requirements for non-residential subdivisions.

(iii) Estimated total number of gallons per day of sewage to be treated and means for sewage disposal for non-residential subdivisions. A discharge analysis shall be included for all identifiable non-residential uses.

(iv) Availability of electricity, natural gas and other utilities necessary or proposed to serve the subdivision.

(v) An optional statement, which discusses features of the proposed subdivision which will promote the goals of the City's Comprehensive Plan.

(c) The Sketch Plan Application shall also include a copy of the most recent deed. The property owners shall be required to consent to and approve the

application before the plan is acted upon by the commission.

(d)(i) The Planning Commission shall review the sketch plan and all supporting plans and documents at a regular meeting. The Planning Commission may recommend approval of the sketch plan provided that all required submittals have been properly made, and the plans and proposed improvements meet the requirements of this Chapter and other City ordinances without material deviation. The sketch plan may be approved with conditions to ensure compliance with requirements of this Chapter and other City ordinances and regulations.

(ii) The Planning Commission may recommend disapproval of any proposed sketch plan which is in violation of the requirements of this Chapter. If denied, the applicant may re-submit a revised sketch plan, pursuant to a new application

(iii) The Planning Commission's recommendations shall be non-binding on the City.

(iv) The proposed plan shall be submitted to the City Council, if all required submittals have been made, when the development exceeds 200 lots or residential units, exceeds 100,000 square feet of gross floor area of non-residential subdivisions, is proposing significant material deviations from the standard requirements of this Chapter, or when other circumstances require review by the City Council.

(e) The subdivider shall be informed of the date of the Planning Commission, and if applicable, City Council meetings.

(f) The subdivider will be required to post a sign (or signs) on the affected property. Signs will be supplied by the City, which describes the subdivision and the date, time and place of the meeting. Said sign(s) shall be posted for the week preceding the scheduled Planning Commission meeting.

(g) Sketch plan approval shall expire 1 year from the date of such approval if no preliminary plat has been submitted.

(h) As part of sketch plan approval, the Planning Commission and City Council may choose to waive the preliminary plat requirement for subdivisions where no

public improvements, unless otherwise postponed, need to be designed and constructed.

(D) Preliminary Plat:

(1) (a) Following approval of the sketch plan, except when not required by virtue of other provisions of this Chapter, twenty-five (25) copies of a preliminary plat along with copies of all required supporting plans or data as set out in 16.04.050(D)(8) below, shall be filed with the City accompanied by filing fees in an amount set by City Council. Pages must be stapled or otherwise bound together, and folded when possible. The plat and engineered plans shall also be submitted on diskette in a digital format acceptable to the City and compatible with the City computer system.

(b) Courtesy Review: The City encourages the subdivider to take advantage of the following courtesy review provision: If requested by the subdivider, Planning Staff will provide a courtesy review of the preliminary submittal for compliance with submittal requirements. Five copies of the preliminary plat and all supporting engineering should be submitted to the City, which will inform the applicant within 10 business days whether the submittal requirements as set forth below for the preliminary plat are met. If said requirements are met, the remaining copies may be submitted to the City. If said requirements are not met, suggestions and recommendations will be made, and submittal deficiencies outlined by the City. Preliminary plat filing fees must be paid prior to courtesy review. The City is not bound by this review.

(2) The City may distribute copies of the preliminary plat and supporting plans or data as appropriate to the County Planning Department, the School District, the gas, CATV, power and telephone companies, the Fire Protection District, the State Highway Department, Federal Aviation Administration, the Uncompahgre Valley Water User's Association, other ditch companies, applicable City departments and employees and other entities as appropriate.

(3) The City may have the preliminary plat and supporting documents and reports checked by an independent registered engineer and/or surveyor at the subdivider's expense.

(4) The City shall schedule the preliminary plat to be considered by the Planning Commission at a regular meeting no sooner than forty-five (45) days after the date the plat and supporting engineering and documents is received by the

City and determined by the City to be in substantial compliance with preliminary plat submittal requirements. The subdivider shall be informed of the date of the Planning Commission meeting.

(5) The preliminary plat and improvements proposed shall comply with all requirements of these subdivision regulations, conditions of sketch plan approval and other applicable City design and construction specifications and standards. The plat shall be drawn to a scale of not less than one inch equals one hundred feet (1" = 100'). Upon the developer's request, the City may waive the minimum scale requirement for large parcels if it is determined that such a deviation will not detract from legibility.

(6) The preliminary plat and supporting maps and documents must be legible, and may be on multiple pages as needed for clarity, and shall contain, at a minimum, the following:

(a) The name of the subdivision and the name and address of the subdivider, and his representatives, if applicable.

(b) The name of the engineer or surveyor preparing the plat, and a title box in the lower right corner.

(c) The graphic scale used and north point and date. The north point shall be grid north based on the Delta Control System.

(d) A location sketch map showing the project location in relation to the City of Delta.

(e) The gross area, and area included within dedicated right-of-ways, subdivision lots, and common areas such as open spaces, parks and trails.

(f) Certificates on forms approved by the City to document approval of the preliminary plat, and the form of the certificates proposed to be used to comply with the requirements imposed for the final plat as found in subsection (E) of this Section, and draft plat notes.

(g) Two foot (2') elevation contours and the boundaries of the "base flood" (100-year flood) and "floodway" and base flood elevation data, as defined and specified in the City's flood plain management regulations.

(h) The zoning of the subdivision and of adjacent property.

(i) The names of the owners of record of adjacent property, and the property lines of adjacent property as space will allow.

(j) The location of watercourses including streams, lakes, wetlands, swamps, ditches and flood prone areas; the location of existing streets, roads, railroad easements, utility lines, poles and towers, sewer lines, water lines, drains, culverts and other underground utilities and facilities both on the proposed subdivision and adjacent property as practical. Specify whether utility lines are in easements or rights-of-way, underground or aerial, and show locations of poles, towers and all exposed utility appurtenances (i.e. water meters, telephone pedestals, electric transformers boxes, and pedestals, fire hydrants, etc.).

(k) The layout and location and name of proposed streets, the layout and location of alleys, bike paths, utility easements and pedestrian walks, and the layout of all lots showing the dimensions and lot areas, and any proposed building setback lines which are required by these regulations or sketch plan approval. Footprints of existing buildings and other improvements should be shown.

(l) The proposed use of all lots and tracts including proposed ownership of parks, trails and open space, as well as the lot layout with block and lot numbers.

(m) Phasing plan, when applicable.

(7) The following shall be submitted accompanying the preliminary plat together with plans and specifications prepared by a registered professional engineer consistent with City standards and specifications, for all required or proposed improvements. All plans and reports shall be wet-stamped by the engineer. Standard details are available from the City in digital format.

(a) A utility composite plan, depicting all proposed and existing utility line and appurtenance locations, including but not limited to fire hydrants and water and sewer tap locations. Plans for electrical service must be included if the subdivision is not served by ML&P.

(b) Plan and profiles for the proposed sanitary sewer system showing location, grade, rim elevation, pipe sizes and invert elevations (into and out of the manholes), appurtenances and the connection points to the existing system. Service wye locations and all intersecting utilities such as water, gas, storm

sewers and irrigation ditches and pipelines must also be shown. Standard details must be included for all sanitary sewer appurtenances.

(c) Plan and profiles for the water system and fire protection system showing locations, pipe size, valves, service connection, meter locations, fire hydrants and connection points to the existing system and supporting water demand calculations, if necessary. All intersecting utilities such as water, gas, storm sewers and irrigation ditches and pipelines must also be shown. Standard details must be included for all water appurtenances. Supporting calculations showing that the water supply is adequate for domestic use and required fire-flows may be required.

(d) Plan and profiles for the storm drainage system showing location, pipe sizes, appurtenances, pond cross sections, grades and discharge points and supporting calculations. Standard details must be included for all storm sewer appurtenances. Storm drainage report and calculations are required. Design of storm sewer and/or storm water systems shall be in accordance with the City of Delta's Stormwater Management Manual, in addition to other applicable standards.

(e) Plans for proposed streets, sidewalks, bike paths, trails and walkways showing grade and cross-sections. Grades shall be shown on a plan and profile drawing showing finished grade elevation profiles and left and right top of curb or finished grade elevation profiles. The design shall be based on soils analysis by a qualified geotechnical engineer or soils laboratory, on samples taken in the proposed construction area, which shall be submitted to the City. Street names, street light and street sign locations shall be shown.

(f) Submittal of a soil or geological report prepared and certified by a professional geologist or geotechnical engineer for lot areas is encouraged by the City.

(g) A final site grading plan.

(h) Plans for piping ditches, private irrigation systems or improvements to waterways.

i) Plans for parks, open space, and recreation facilities, including equipment, fencing, landscaping and irrigation systems.

(j) Unless waived by the City, a traffic impact study and plans for recommended traffic mitigation measures shall be required for residential developments with ten or more lots, units, or property interests, and for all commercial and industrial developments. The traffic impact study shall include all information required by the City's traffic study format requirements, provided that the City may waive, or add requirements on a case-by-case basis as circumstances warrant. The scope of the impact study may be broadened to include other nearby subdivisions and developments, allowing for cooperative participation and cost sharing.

(k) Documents and plans required pursuant to sketch plan approval.

(l) Draft covenants.

(m) All proposed subdivisions of greater than 500 residential units, or greater than 200,000 square feet of gross floor area for non-residential subdivisions, shall submit a fiscal/infrastructure impact analysis with the preliminary plat that shall demonstrate that the proposed subdivision or development will not have significant, adverse impacts on the capacity or quality of the City's existing infrastructure, including the City's water and sewage treatment systems, streets, storm-water, electric utilities and the school system.

A fiscal/infrastructure impact analysis shall contain the following requirements, provided that the City may waive, or add requirements on a case-by case basis as circumstances warrant:

(i) The projected service demands for City utilities, services, and infrastructure, including water, sewer, streets, storm-water, electric utilities and schools, that are directly generated by the proposed subdivision; and

(ii) An analysis of the capacity of existing and planned municipal facilities and infrastructure to meet future demand directly generated by the proposed subdivision, and a determination of any resulting capacity shortfalls or degradation in service or quality; and

(iii) An estimate of the costs associated with the provision of municipal utilities and services to the proposed subdivision.

(8) Supporting documents shall be submitted as follows:

(a) Eight (8) copies of all engineering reports and calculations.

(b) Twelve (12) copies of engineered plans and profiles, which may include water, sewer, storm sewer, and streets, bound together, but separate from other plans.

(c) Twenty (20) copies of the utility composite drawing and phasing plan. Twenty (20) of the required twenty-five (25) copies of the preliminary plat should be bound with the utility composite and phasing plan, separate from other plans.

(d) Twenty (20) copies of the parks, trails, open space, or recreation areas plans, landscaping plans and irrigation plans, bound together, but separate from other plans.

(e) Fifteen (15) copies of the covenants.

(9) The applicant shall be required to give advance notice of the preliminary plat review by the City Planning Commission by posting a sign (or signs) on the affected property. Signs will be supplied by the City, which describes the subdivision and the date, time and place of the meeting. Said sign(s) shall be posted for seven (7) days preceding the scheduled Planning Commission meeting.

(10) The Planning Commission shall review any plat submitted to it at a regularly scheduled meeting, and either recommend approval of the plat with or without conditions provided that all supporting documentation has been property submitted and the plat meets all requirements, disapprove the plat if it does not appear to comply with the provision of this Chapter, or approve the plat with modifications or conditions.

(11) The reasons for recommending disapproval shall be included in the minutes of the Planning Commission meeting and provided to the subdivider in writing upon request.

(12) The City may disapprove a preliminary plat where the fiscal/infrastructure impact analysis shows there will be a significant, adverse impact on the City's infrastructure capacity and/or quality unless the City determines that the benefits of the project, including potential tax revenues outweigh any anticipated adverse impacts.

(13) Unless the subdivider withdraws his plat, it shall be submitted to the City Council for review and action. The

Council may disapprove the preliminary plat if it finds, that the requirements of these regulations have not been met. The Council may approve the plat with conditions as appropriate to implement the provisions of this Chapter.

(14) (a) The subdivider may commence construction of subdivision improvements only following approval of the preliminary plat by the City Council, submittal of copies of the preliminary plat as finally approved by the City, submittal of any revised plans (stamped by the engineer) required by the City and approval thereof, and a diskette of the preliminary plat in a digital format acceptable to the City and compatible with City computer systems.

(b) Water utility applications must be completed and water tapping and any other applicable system improvement fees must be paid prior to commencement of construction.

(c) Prior to commencement of construction, the applicant and City Planning Staff shall cooperatively schedule a pre-construction meeting, to be held at City Hall. The applicant shall be responsible to arrange for his contractor(s) and representatives from all affected utility companies to attend said meeting.

(d) After the pre-construction meeting, and upon submittal and approval of completed submittals and payment described above, the City shall then issue a written notice to proceed.

(E) Final Plat:

(1) (a) No land shall be subdivided nor any subdivided lot or parcel sold or conveyed until a final plat has been approved and recorded in accordance with this subsection. No final plat may be submitted more than two (2) years after approval of a related preliminary plat or partial final plat filing without resubmitting a preliminary plat for approval. In all cases, no final plat shall be approved if submitted beyond ten (10) years of approval of a related preliminary plat.

(b) Building permits may be issued for any property with an approved preliminary plat after adequate infrastructure has been installed to serve the building, but no certificate of occupancy, other than limited temporary certificates of occupancy, shall be issued until a final plat is approved and recorded. In all cases, the property owner of record must be the applicant for, and sign said building permit. Building footprints of such buildings must then be depicted on the final plat.

(2) Fifteen copies of the final plat shall be submitted to the City for review accompanied by filing fees in an amount set by the City Council.

(3) Disclosure of ownership, with supporting documentation from a title insurance company or attorney licensed in the state of Colorado, which shall set forth a legal description of the property and title ownership of the property must be provided in conjunction with submittal of the final plat.

(4) The final plat shall contain all elements required as a condition of preliminary plat approval and the following, all in standard City approved forms, or other form acceptable to the City:

(a) The total number of lots and lot numbers or letters.

(b) Sufficient data to determine easily and reproduce on the ground the location, bearing, length of every street line, boundary line, easement line, block line, lot line and building setback line (which are required by these regulations or preliminary plat approval), whether curved or straight, including the radius, central angle and arc length or chord distance and bearing for all curved lines. All dimensions shall be to the nearest one-hundredth of a foot (.01') and all angles to the nearest second.

(c) A certificate by a registered surveyor, attesting to the accuracy of the survey plat and placement of monuments, and compliance with the requirements of this Chapter and State law.

(d) A certificate of ownership and dedication for streets, easements and other property dedicated for public use, properly executed and notarized.

(e) A lienholder's certificate, where applicable.

(f) A certificate by a licensed professional engineer that the streets, water, sewer and storm drainage systems meet all applicable requirements of the City.

(g) Separate certificates of approval of the plat for the Planning Commission, the City Council, and the City Attorney.

(h) A certificate of recording to be executed by the County Clerk and Recorder.

(i) A certificate of an attorney that title to the property is in the name of those parties executing the dedication, and that property dedicated to the City will be free and clear of all liens and encumbrances affecting marketability.

(j) A certificate by the Community Development Director specifying which improvements have been completed.

(k) A certificate by the City Clerk as to receipt of any security for the completion of improvements.

(l) The name of the subdivision and the name and address of the subdivider, and his representative if applicable, said information to be included within a title box on the lower right corner.

(m) The name of the surveyor preparing the plat, the date of the plat, said information to be included within a title box on the lower right corner.

(n) The scale used, direction of true north, and basis of bearing, based on City of Delta Controls.

(o) A location sketch map showing the project location in relation to the City of Delta, with appropriate reference to significant roads or highways.

(p) The gross area and area excluding dedicated public ways and property of the subdivision.

(q) The location of watercourses including streams, lakes, wetlands, swamps, ditches and flood prone areas; and the location of rights-of-way and easements.

(r) The layout, location and name of streets, the layout and location of alleys, bike paths, utility easements and pedestrian walks, and layout of all lots showing dimensions and lot areas, and any building envelopes or building lines which differ from zoning setbacks, if any.

(s) The location of all parks, trails and recreation paths, open space and any land to be reserved or dedicated for public or other uses.

(t) The boundaries of the "base flood" (100-year flood) and "floodway" and base flood elevation data, as defined and specified in the City's Flood Plain Management Regulations.

(u) The location and description of all monuments and coordinates of all external boundary monuments based on Delta Control System.

(v) Plat notes and restrictions as appropriate to implement compliance with this Chapter, conditions of approval, and as necessary or desirable to implement the City's Comprehensive Plan.

(w) Existing improvements, including buildings and septic system locations if applicable.

(5) The final plat shall be accompanied by a computation showing closure of the tract boundary to one foot (1') in five thousand feet (5,000') or better. The final plat and accompanying plans shall be drawn to a scale of not less than one inch equals one hundred feet (1" = 100'). The City may have the plat checked by an independent registered surveyor at the subdivider's expense.

(6) The final plat may be submitted for a portion of the preliminary plat, or "phased", subject to the following conditions:

(a) All required improvements, utilities and road infrastructure must be accessible to the remaining aggregate of unsubdivided land, and "outlots"

(b) In instances where completion of required improvements, utilities or road infrastructure within the outlot is necessary to serve the lots in the partial final plat, the developer shall be required to complete said improvements, utilities or road infrastructure upon approval of that final plat. This may include, but not be limited to, completion of necessary road infrastructure, stormwater drainage system, trails and park development.

(c) In instances where the dedication or conveyance of land or easements within the outlot is necessary to serve lots in the partial final plat, the developer shall be required to dedicate said lands or easements upon approval of that partial final plat. This may include, but not be limited to, the dedication, conveyance and development of land for parks, trails, open space, right-of-way and easements.

(7) The final plat shall be accompanied by security for the completion of any uncompleted improvements in accordance with Section 16.04.080 of these regulations.

(8) Accompanying the final plat shall be the record drawings ("as-builts") for streets, sanitary sewers, storm sewers, drainage systems, water systems and fire systems

showing grades, pipe sizes, outlets, connection points, and service tap and stub-out locations, including elevations based on the Delta Control System, and other information which the City may require along with record drawings plans for all other utility systems. Record drawings and data shall also be provided on diskette in a digital format compatible with City computer systems, and in accordance with City specifications. Record drawings for any improvements not completed at the time the final plat is submitted shall be submitted prior to inspection or approval of the improvements and release of any security.

(9) The City shall schedule the final plat to be considered by the Planning Commission at a regular meeting no sooner than 30 days after the plat and required supporting material is received by the City and determined by the City to be in substantial compliance with final plat submittal requirements. Final plats of subdivisions where no substantive changes have been made since preliminary plat approval, and where all conditions of preliminary plat approval have been met will not require Planning Commission review and recommendation prior to scheduling City Council review. In all cases, however, adequate time for administrative and legal review must be allowed prior to placing the plat onto a City Council agenda.

(10) When applicable, the Planning Commission shall review the final plat and either recommend approval or disapproval of the plat with or without conditions.

(11) If disapproved, the reasons for recommending disapproval shall be included in the minutes of the Planning Commission meeting and provided to the subdivider in writing upon request.

(12) Unless the subdivider withdraws the plat, it shall be submitted to the City Council for review and action. The Council may approve the plat, approve it subject to conditions necessary to implement the provisions of this Chapter, or disapprove the final plat if it finds that the requirements of these regulations have not been met.

(13) Following final approval and execution by the City, the plat shall be recorded by the City.

(14) No final plat shall be recorded by the City until:

> (a) All of the improvements required by these subdivision regulations have either been installed, inspected and approved by the City or a subdivision improvements agreement for the improvement(s) with a security arrangement in accordance with the provisions of Section 16.04.080 of these regulations has been

properly executed by the subdivider on forms approved by the City.

(b) Two reproducible mylars of the plat in final form fully executed by all required parties except the City, along with a diskette in a digital format acceptable to the City, and compatible with the City's GIS system have been submitted.

(c) Payment to the City of all reimbursable expenses has been received.

(d) Final plat approval shall expire if the requirements of this paragraph 13 are not met within 90 days of approval. (Ord. 5, §1, 2004; Ord. 3, §1-3, 2008)

16.04.060: REQUIRED IMPROVEMENTS AND DEDICATIONS: All Subdivisions and improvements shall be in substantial compliance with the City Comprehensive Plan.

(A) All subdivisions shall be provided, at the expense of the subdivider, with the following improvements as required to serve the subdivision and to mitigate its impacts, including but not necessarily limited to the following:

(1) Street improvements:

(a) Paved streets;

(b) Paved alleys, if required by the City;

(c) Street signs;

(d) Street lights;

(e) On and off-site traffic mitigation improvements;

(f) State highway intersection improvements required by CDOT to serve the development.

(2) Curbs, gutters, sidewalks and ADA accessibility ramps

(3) Public Utilities:

(a) A water system including fire hydrants and fire mains;

(b) A sanitary sewer system;

(c) A stormwater system;

(d) Other public utilities, including if available, gas, electricity, telephone and CATV;

(4) Parks, open space, bikepaths, pedestrian and recreation trails;

(5) Piped drainage facilities and waterways.

(6) Survey monuments;

(7) Berms, screening and buffers, if applicable;

(8) Off-street parking, mailbox location areas and school bus stops, if applicable.

(9) Piped ditches.

(B) (1) A subdivider may provide, at the subdivider's expense, certain private improvements including, but not limited to recreational facilities, open space, parks, pedestrian walkways, trails, drainage facilities, pond and waterway, berms, screening and buffers, etc., to serve the subdivision or to mitigate its impacts, in accordance with duly adopted City standards, if applicable.

(2) Land proposed to be left as substantially undeveloped open space must be designed, located, altered, owned and maintained as appropriate to eliminate trash, weeds, litter, nuisances or junk, dumping, and to mitigate any safety or fire hazard.

(3) The City may require the installation of ditch, storm drainage, flood protection improvements, retention or detention areas, waterway piping or other improvements to be privately owned and maintained, as appropriate to serve or protect the subdivision and other properties.

(4) An area shall be provided for mail boxes and school bus stops when due to subdivision size or location, they are deemed necessary.

(5) The plat shall contain for all privately owned improvements, appropriate restrictions on the use and covenants for ownership and maintenance, in perpetuity, enforceable by the City, providing for recovery of the City’s costs by liens or assessment against the property in the subdivision.

(6) Construction of any such improvements shall be completed or secured similar to public improvements prior to final plat approval.

(C) Other improvements may be required as a condition of approval when found to be roughly proportional to the impacts being mitigated.

(D) All improvements shall be constructed in accordance with these regulations, other applicable City design and construction specifications and standards and other applicable City ordinances or regulations, in substantial conformity with the preliminary plat as approved and in accordance with good engineering and construction practices.

(E) Following the completion of any required improvements and submission of the as-built plans (record drawings), the City shall conduct an inspection and if the improvements are in accordance with the requirements of these and other applicable regulations and good engineering and construction standards, the City shall issue a certificate of completion, and shall thereafter own all public improvements. For a period of one year thereafter, the subdivider shall be responsible to correct all defects or failures which appear in such improvements. The City may make warranty inspections of the improvements. The City shall give the subdivider a list of any corrections to be made. The warranty shall continue, however, until all corrections are made and approved.

(F) All property, and easements dedicated to the City on any plat shall become property of the City upon approval and execution of the plat by the City, free and clear of all mortgages, liens and encumbrances.

(G) All property and easements must be dedicated to the City, free and clear of all liens and encumbrances by the owners of any interest therein except the owners of severed mineral interests. (Ord. 5, §1, 2004)

16.04.070: MINIMUM DESIGN STANDARDS:

(A) All public improvements shall be constructed in accordance with the minimum standards set forth below and other applicable City design and construction specifications and standards, and other applicable City ordinances or regulations. All public and private improvements shall be in substantial conformity with the preliminary plat as approved, the City Comprehensive Plan and amendments thereto, and in accordance with good engineering and construction practices.

(B) The City may allow a deviation from these design standards under the following circumstances:

1) The deviation is not intended to merely reduce the cost to the developer, and will not adversely affect the quality of the subdivision or the public health, safety and welfare, and will not undermine the purposes of these regulations, or be substantially inconsistent with the City's Comprehensive Plan, and.

2) (a) The alternative design is necessary to reasonably accommodate development of unusually shaped parcels or

parcels with waterways or other limiting topographical features, or

(b) The alternative design will more effectively implement the purposes of these regulations and the public health, safety and welfare, or

(c) The alternative design is superior in functionality, durability or utility to the City, or

(d) The alternative design will conform to existing adequate public improvements within the subdivision previously approved by the City.

(C) Streets:

1) Subdivider shall be required to make and install improvements to existing streets within and abutting the subdivision and in other areas outside the subdivision, including but not limited to curbs, gutters, sidewalks and street paving improvements, when the subdivision will create a need for said improvements outside the subdivision itself, or a need to expand or improve existing public improvements to current standards in order to properly serve the subdivision, or if the subdivider or their predecessors of interest by virtue of their actions and the timing and scope of development of the subdivision or other property have created a situation where the needed improvements were not previously improved or installed. It shall be presumed that existing streets and sidewalks directly abutting the subdivision must be improved to current City standards in order to properly serve the subdivision.

2) In those cases where the City determines that the immediate improvement of the abutting street, or other on-site or off-site improvements, is not currently practical, or should be delayed, or the costs of such improvements should be shared with additional property likely to use and be benefited by the improvements, such as future State highway intersection improvements mandated by CDOT, the developer may be allowed to execute recordable covenants on the plat or separately on a form provided by the City, binding the lots in the subdivision to future assessments or participation in an improvement district for the construction of such improvements.

(3) Wherever topography will permit, the arrangement of streets shall provide for the alignment with and continuation of existing streets in adjoining areas, and where applicable, shall be consistent with the City's Major Street Plan. Additional right of way must be dedicated for such streets notwithstanding whether current street construction is required as part of the subdivision.

(4) Cul-de-sacs shall terminate in a circular turn-around having a minimum right of way of at least one hundred feet (100') in diameter and a paved turn-around with a minimum outside diameter of eighty feet (80'). Cul-de-sacs shall be located at least forty feet (40') from intersections. Cul-de-sacs shall have a maximum length of seven hundred feet (700') and may be abutted by no more than twenty-five (25) lots, units, or property interests even if its length is less than seven hundred feet. It is provided, however, that such length requirements may be modified when appropriate due to the topography or physical shape of the property being subdivided.

(5) Dead-end streets are prohibited, unless they are designed to connect with future streets in adjacent unplatted land, in which case, temporary dead-end streets which extend for a distance greater than the depth of one abutting lot provided with a temporary turn-around having a diameter of at least eighty feet (80'), may be allowed.

(6) Half streets are prohibited. Whenever a new street is proposed along the edge of the subdivision, the entire street shall be dedicated and improved within the subdivision.

(7) No more than two (2) streets shall intersect at any point except where alternative street designs, such as round-abouts, are employed. Intersections shall be as near as practicable to ninety degrees (90^{N}).

(8) The length of local streets between intersections shall be a maximum of fifteen hundred feet (1,500').

(9) Reverse curves shall conform to the design criteria as stated in the City's Standards and Specifications. A street shall have a minimum straight distance of one hundred feet (100') from the intersection before it may be curved. No street shall intersect any other street at an angle of less than sixty degrees. The angle of the intersection is to be measured at the intersection of the street centerlines.

(10) All lots shall have direct access to a dedicated street, except that reciprocal access easements may be approved to accommodate subdivisions with multiple commercial units with contiguous parking areas in commercial zoning districts.

(11) Any two (2) streets which intersect a common third street shall have center lines no closer than one hundred twenty five feet (125') from one another except where alternative street designs, such as round-abouts, are employed.

(12) Street names shall not be used which will duplicate or be confused with the names of existing streets and shall be subject to approval by the City. Street numbers shall be assigned by the City staff.

(13) Streets shall be developed in accordance with the Major Street Plan as required by the City. The minimum dedicated right of way shall be as follows, except as provided in subsection 16.04.070(D)(1), or as noted below. Collector right-of-way widths may be required for local streets which were dedicated or conveyed in conjunction with subdivisions previously approved by the City or County which required 60' wide streets.

Street Classification	Minimum Right of Way	Minimum Pavement Width Between Face of Curbs
Major Arterial	100 feet	64 feet
Minor Arterial	80 feet	48 feet
Collector	60 feet	42 feet
Local	50 feet	38 feet

(14) Subdivisions which include any part of an existing street which does not conform to the minimum right-of-way requirements of these regulations shall provide additional width as required to meet the minimum right-of-way requirements of these regulations to the extent practicable.

(15) No street grade shall be less than one-half of one percent (0.5%) or exceed the following maximum grade:

Street Classification	Maximum % Grade
Major Arterial	5%
Minor Arterial	5%
Collector	8%
Local	8%

(16) The radius of any curve on a major arterial or minor arterial street shall not be less than four hundred feet (400'). The radius of any curve on a collector street shall not be less than three hundred feet (300'). The

radius of any curve on a local street shall not be less than one hundred feet (100').

(17) The minimum sight distance on a major arterial street, or minor arterial street shall be five hundred feet (500'); on a collector street, three hundred feet (300'); and on local streets, two hundred feet (200'); as measured between points four feet (4') above the centerline of the street.

(18) Alleys shall be provided at the rear of lots which are commercially zoned except where the subdivider can demonstrate that loading, trash pick-up and utilities can be better served without an alley. Alleys shall be a minimum twenty feet (20') in width and shall be paved in accordance with City specifications. New alleys shall be maintained by the abutting property owners or lot owners association, and a plat note provided on the plat for this purpose.

(19) Driveways and intersections shall comply with City access standards and the Major Street Plan.

(20) Additional pedestrian ways, not less than 10' wide, may be required to provide access between non-through streets such as cul-de-sacs, and to schools, playgrounds, shopping centers, open space, other community facilities, or adjacent parcels.

(21) Private streets shall not be approved except in a planned unit development.

(22) Where reasonably necessary to provide street access to an adjoining tract, a street shall be dedicated to the boundary of such property.

(23) All subdivisions which contain more than 25 lots, units or interests shall have more than one street access to the subdivision in order to provide for the public safety.

(24) Local and collector streets shall be laid out so that their use by major through traffic will be discouraged. Expected volumes on proposed streets should not exceed the range acceptable for their assigned classification as established by the Major Street Plan.

(25) When a tract is subdivided into larger than normal building lot(s) or parcel(s), such lot(s) or parcel(s) shall be so arranged as to permit the logical location and

opening of future streets and appropriate resubdivision, with provision for adequate utility easements and connectors for such resubdivision.

(26) Where a street will eventually be extended beyond the subdivision, but is temporarily dead-ended, an interim turnaround shall be required.

(27) Where a subdivision borders or contains a state or federal highway or railroad right-of-way, the City may require adequate provisions for separation and reduction of noise. A parallel street, landscaping, screening, sound wall, easement, greater lot depth, increased rear yard setbacks and fencing, among others, are some appropriate measures for mitigating undesired noise and other highway impacts.

(28) Where railroad crossings are proposed or are affected, provisions for grade separation, buffer strips and safety protection devices shall be provided by the applicant or railroad as required. Obtaining approval from the affected railroad company and the Colorado Public Utilities Commission, where applicable, shall be the applicant's responsibility.

(29) Mid-block pedestrian crossings may be required if determined by the City to be necessary.

(D) Curb, gutter and sidewalks:

(1) Curb, gutter and six foot (6') sidewalks shall be provided along major and minor arterials; curb, gutter and five foot (5') sidewalks shall be provided along collector and local streets. The following exceptions may apply, provided however, that streets designated as major or minor arterial or collector streets by the City's Major Street Plan shall have curbs, gutter and sidewalks:

(a) A subdivider may, however, elect not to install curb, gutter and sidewalk on local, internal streets in "estate subdivisions". "Estate subdivisions" are those subdivisions with a minimum lot size of one-half (0.5) of an acre, a maximum lot size of five (5.00) acres, an average lot size of at least one acre, and a gross area of at least ten (10) acres. In such cases, local streets shall have a minimum right of way of sixty feet (60'), a minimum pavement width of thirty six feet (36'), gravel based shoulders - on each side two feet (2') in width, and stormwater drains as approved by the City. Sidewalks or recreations paths

shall still be required to access parks and open space. Sidewalks shall also be located and constructed as necessary to interconnect the subdivision and lots therein with the network of City sidewalks, recreations paths and trails, and as necessary to provide logical and convenient pedestrian access and circulation within the subdivision.

(b) In industrially zoned subdivisions, the subdivider may elect to install concrete valley pans in lieu of curb, gutter and sidewalk on internal streets which only serve the industrial subdivision. In order to provide for pedestrian needs, all collector, arterial and external abutting streets shall be constructed in conformity with City requirements for curb, gutter and sidewalks.

(2) Where curb and gutter are to be constructed, vertical curb shall be required for all arterial and collector streets. Combination curb, gutter and sidewalk (rolled curb) which meets City specifications may be used only on local residential streets. On local streets, where safety considerations require access to be controlled, vertical curb shall be used to effect such control.

(3) Accessibility ramps shall be provided in accordance with the Americans with Disabilities Act and City Standards and Specifications. ADA preferred options must be used, unless other options are specifically approved by the City.

(4) The City may require any sidewalk to be wider than those standards set forth herein, upon a finding that greater widths are necessary to serve the subdivision due to high density of the subdivision; special needs of the residents or users of the subdivision; connection to existing wider sidewalks or recreation paths.

(5) Access drives onto existing streets which do not have curb, gutter and sidewalks shall comply with existing City and County standards for driveway construction.

(6) In subdivisions where alternatives to curb, gutter and sidewalk are utilized, weed control of gravel shoulders shall be the responsibility of the abutting property owner, and so noted on the plat.

(E) Blocks and Lots:

(1) Blocks shall have a length of at least four hundred feet (400') and not more than one thousand five hundred

feet (1,500'). In residentially zoned districts, blocks shall be wide enough to permit two (2) lots between lengthwise streets.

(2) (a) The building line for residential lots that adjoin collector streets shall be set back no less than twenty-five feet (25') from the property line that is shared in common with the boundary line of the collector street.

(b) The building line for residential lots that adjoin arterial streets shall be set back no less than forty feet (40') from the property line that is shared in common with the boundary line of the arterial street.

(3) Minimum lot size must conform to zoning regulations, but in no case shall it be less than 6000 square feet. Minimum lot width at the front building line of residential lots shall be 50' minimum, except that lots abutting cul-de-sacs shall have at least twenty-five (25') of linear frontage to the cul-de-sac.

(4) Residential lots which abut a street in the front and the rear should be avoided except where they are needed to provide for the separation of residential development from major streets or railroad right-of-way, or to overcome specific disadvantages or topography, in which case such a lot shall have a minimum depth of 125'. Privacy fencing or landscape screening may be required where side or rear yards back onto arterial streets or railroad ROW. There shall be no right of access across such a fence or screening easement.

(5) Side lot lines shall be as close as practical to and perpendicular to the tangent line of the abutting street.

(6) Every lot shall front on a designated collector or local street. No lot shall front on a major arterial or minor arterial street. No access shall be permitted directly from a lot to a major arterial or minor arterial street. However, new lots may be created which have access onto an arterial street if the following conditions are met:

(a) The subdivision contains no more than 3 lots,

(b) A shared access easement is utilized so that no new access points are created, or the total number of access points onto the parcel is not increased,

(c) No more than 1 additional lot may be created which has such access in any subdivision,

(d) A plat note shall be employed to prohibit further subdivision of or construction of multi-family residences unless local street access is provided.

(e) An easement must be provided which reserves adequate room for automobile turnaround space within the lot.

(7) Lots designed to have access onto a collector or arterial street shall provide adequate room for automobile turnaround space within the lot so that vehicles will not back onto street right-of-ways. The provision of combined access points, to serve two (2) or more lots is encouraged in commercial areas in order to minimize disruptions to traffic flow along the adjacent collector or arterial roadway. Shared driveways are encouraged for residential lots adjacent to collector streets. Residential lots utilizing shared driveways shall be provided with T shaped easements a minimum of 20' wide.

(8) The lot depth shall not be more than three (3) times the lot width at the front building line except in instances of extreme topography or unusual physical conditions or as noted below:

(a) Flag lots which do not meet the above proportion requirement may be allowed where topography or other unique physical circumstances necessitate the use of such design, so long as they meet the following criteria:

(i) in residential zones, a minimum width of 60' feet must be provided for the driveway (flagpole), except a minimum width of 25' may be provided for the driveway (flagpole), if further subdivision of the lot is prohibited by a plat note.

(ii) no flag lot shall abut more than one other flag lot.

(iii) the lot area occupied by the flag driveway shall not be counted as part of the required minimum lot area. Setbacks will be applied only to the area occupied by the primary (flag)

portion of the lot, with the driveway disregarded for application of setbacks.

(iv) no flag driveway (flagpole) shall be longer than 150 feet,

(v) in no instances shall flag lots constitute more than 5% of the total number of building sites in a given development, or 3 lots (whichever is more);

(vi) flag lots shall not be permitted whenever their effect would be to increase the number of building sites taking driveway access to an arterial street.

(vii) no structures shall be allowed to be placed within the flagpole area.

(viii) lots shall be designed to allow vehicles to exit driving forward.

(10) All lots should be large enough to permit location of a building which conforms to building lines, irrespective of minimum lot size.

(11) The layout of lots and blocks should provide desirable settings for structures by making use of natural contours and maintaining existing views, affording privacy for the residents and protection from adverse noise and vehicular traffic. Natural features and vegetation of the area should be preserved to the greatest extent possible.

(12) Unique site features, whether topographic or vegetative, shall receive special consideration in any subdivision design. Such features should be left undisturbed wherever practical in lot development. Significant natural drainageways shall not be disturbed or re-routed except where of general benefit to the overall development.

(F) Easements:

(1) Utility easements shall be dedicated on the final plat with a width as reasonably required by the affected utilities, but no less than a minimum of 20' wide. Wherever possible, easements shall be centered on lot lines.

(2) Easements for irrigation or waste-water ditches or pipelines shall be a minimum of 20' wide, with greater widths provided as requested by the affected irrigation company. Where access for maintenance is needed, sufficient width should be provided for maintenance vehicles. When irrigation or waste-water pipelines or ditches share easements with utilities, additional easement width should be provided to minimize conflicts between the uses.

(3) Where a proposed subdivision is traversed by a water course or drainage way, appropriate provisions shall be made to accommodate storm water and drainage through and from the proposed subdivision. Such easements shall conform substantially with the lines of said water course and be of sufficient width for construction and maintenance or both.

(G) Parks, Trails, Open Space, Recreation Facilities, Common Areas:

(1) The provision of parks, trails, open space, common areas, and recreation facilities shall conform to the minimum design standards as set forth herein, and the City specifications for parks.

(2) All non-public common areas or elements and open spaces will be owned, located, constructed, installed and maintained in perpetuity, with appropriate City approved plat restrictions on use and covenants for ownership and maintenance. All non-public common areas shall be located, constructed and installed in compliance with plans as reviewed and approved pursuant to these regulations.

(3) Public parks, sidewalks, bike paths, recreation trails, pedestrian walkways and parkways shall be provided consistent with the City's Comprehensive Plan, integrated with existing and planned sidewalks, bikepaths, parks, recreation trails, pedestrian walkways and parkways whenever feasible and shall be designed and constructed in accordance with City design and construction standards.

(4) Unless otherwise authorized, areas which will be available for use by the public in addition to the residents of any subdivision shall be conveyed by easement or dedication to the City. Sidewalk and recreation trails shall conform to the Americans with Disabilities Act where applicable.

(5) Unless otherwise authorized, parks developed in accordance with City standards and specifications at least two acres in size, shall include all-weather restrooms and adequate parking areas to City standards and shall be dedicated to the City for public use. Parks containing less than two acres shall be owned and maintained under common ownership, and shall be a minimum of one acre in size.

(6) Natural watercourses shall be developed and preserved consistent with City Floodplain Management Regulations, Storm Drainage Requirements and Federal Clean Water Act Section 404 Permit requirements, to minimize safety, environmental, and other hazards, and shall be integrated with the City's Comprehensive Plan for such watercourses whenever feasible. Parks, open space, and trails shall be sited in flood plains instead of developed lots when reasonable to do so.

(7) Developed, dedicated parks shall be provided at the developer’s expense for all subdivisions, except boundary adjustments and replats as defined in these regulations, those with plat restrictions prohibiting residences, or within the I-1 and I-2 zones. In accordance with the National Parks Standard adopted by the City, subdividers shall dedicate developed park land based upon a formula of ten (10) acres of developed and usable park land per density of one thousand (1,000) residents, calculated at build-out of the proposed subdivision. For purpose of this calculation, it shall be assumed that each residential unit shall house two and one-half (2.5) residents.

(8) For purposes of these provisions, developed park land shall require submittal and approval of a park plan (as part of the preliminary plat submittal) by the City, which plan shall address grading and topsoil preparation, access, irrigation system, park access, equipment, and landscape plantings.

(9) (a) For those subdivisions where the dedication of park land or open space is not practicable, such as subdivisions involving small land area or few lots or other unusual circumstances, or when the required acreage computed by the formula of paragraph 7 above is less than one acre, the City may require or accept a cash payment in lieu of construction of developed parks based upon the City's average park development costs and land acquisition costs as stated below. Payment in lieu of shall be calculated as follows:

Number of additional Lots or Units created x 0.025 (acres park land per lot or unit) x $48,120.00 (value per developed park land acre based upon $15,000 per acre land value plus $33,120 park land development cost) = $1203.00 per lot or unit

(b) Such payments shall be collected prior to recording the final plat and used by the City for park acquisition and development purposes. Such payment may be subject to a City discount established by City Council from time to time (initially $414 per lot or unit) to recognize a City wide contribution toward regional parks.

(c) The City may also require development of only a portion of the park requirement as appropriate to meet the need for a neighborhood park and require a payment in lieu for the remainder of the obligation to be utilized by the City for community parks. In determining which of the combination of the above policies to implement the City will consider the following: The size of the development and its adequacy for accommodating a suitable public use site; existing parks and other public uses in the area; the topography, geology and location of land in the subdivision available for dedication; the needs of the people in the subdivision; and any other appropriate factors.

(10) When authorized by the City, requirements for developed park land may be partially or wholly met all or in part by alternative provision of public access open space areas such as riparian habitat, floodplains, wetlands habitat, view corridors or trails. The appraised land value of such an alternative dedication shall be equal to the total value of the developed park land which it replaces based on values as calculated pursuant to paragraph 9(a) above.

(11) All developed park areas shall be designed and constructed so that they are accessible to both pedestrians and vehicles.

(H) Irrigation, Wastewater, Seep, and Drainage Ditches & Pipelines:

(1) All ditches shall be piped, with the following exceptions:

(a) Large canals where it is currently unfeasible or unpractical to pipe or cover, shall be protected by fencing to protect the life, safety and welfare of the public. Security for future piping of such canals may be required in the form of a covenant on the plat.

(b) Piping of ditches is not required for those properties that are within the A-1 zone, or where all proposed lots are larger than 1 acre, except as noted in (2) below.

(2) In all cases, where irrigation or other ditches are located adjacent to and/or within road right-of-ways, ditches should either be piped, or piping secured, and appropriate easements provided. In cases where irrigation pipelines share easements with any other utility, additional easement width shall be provided to separate said pipelines or ditches from other utilities, and minimize conflicts between the different uses.

(3) Appropriate easements shall be dedicated on the plat to Uncompahgre Water Users Association, or other ditch owner unless the City authorizes the ditch to be in a street right-of-way.

(4) Perpetual maintenance shall be provided pursuant to plat notes. The City shall not be named responsible for said maintenance.

(5) Permission shall be acquired, in writing, from all applicable owners of ditch facilities prior to improvements thereto.

(I) Utilities:

(1) All utilities shall be installed underground unless the City determines that soil or topographic conditions make that impracticable. Utilities such as telephone, television cable, electric and gas services shall be installed in accordance with the standards of the servicing company.

(2) Utilities shall be installed prior to the paving of any street under which they are to be located and the individual service lines shall be connected and stubbed out prior to paving, in order to avoid the necessity of cutting into the pavement to connect any abutting lots.

Where an entire subdivision is adjacent to an existing improved street, and no new street construction is

required, street crossings for dry utilities such as power, cable, phone, etc, must be accomplished by boring rather than an open street cut, and a sleeve provided for these utilities, at a minimum.

(3) Utilities will be sized and placed as necessary to facilitate connection with future subdivisions and developments. At a minimum, six inch (6") water main lines shall be provided in residential zoning districts, and eight-inch (8") water main lines shall be provided in commercial and industrial zoning districts. At a minimum, eight-inch (8") sewer main lines shall be provided in all zoning districts.

(4) The City may elect to require over-sizing of the extended utility and may participate in the cost of over sizing City mains above the size necessary to serve the subdivision.

(5) Water and sewer lines shall be designed to best accommodate extension to all adjacent properties which may develop at a later time.

(6) City water systems shall be provided except where the City has required an alternative water supplier by service area agreement with such alternative provider.

(7) Individual sewage disposal systems may be used instead of City sewer service only on the following conditions:

(a) More than a 1/4 mile extension of City sewer main would need to be constructed at the developer's cost in order to reach the closest point of the subdivision;

(b) Further subdivision of any lot is prohibited unless City sewer service is provided;

(c) Each lot shall be subject to a covenant to participate in the cost of a sewer extension project to serve the lot, payment of tap fees, system improvement fees and other charges, by assessment, improvement district or otherwise, and to connect to City sewer upon the City's request.

(d) No lot may be smaller than 1 acre, or such larger lot as required by County Health Department ISDS requirements.

(e) Uses are restricted to uses eligible for ISDS systems.

(f) The plat shall contain notes in a City approved form implementing these provisions.

(g) Health Department inspection of the site must be made and written verification from the Health Department must be provided prior to recording the final plat indicating that ISDS can be constructed on each lot.

(8) Prior to any installation or construction of utility extensions, the subdivider shall first submit proposed alignment location maps and engineered drawings for City approval. The subdivider shall acquire all necessary easements for the proposed utility location from all affected properties. The easements shall be conveyed to the City and executed on applicable City forms. City Right-of-Way Excavation and Revocable Encroachment permits shall be acquired prior to work.

(9) All utility extensions shall be subject to City inspection and approval. The City may elect to contract inspection services at the subdivider's expense.

(10) All utility main line extensions, once approved by the City, shall be dedicated to the City with applicable utility easements. As-built plans and data shall be provided on hard copy in accordance with these provisions and on diskette in a digital format compatible with City computer systems.

(J) Monuments: All lots and related streets shall be monumented in accord with the requirements of C.R.S. §38-51-104 and 38-51-105 and in further accord with the requirements of Section 1.25.03 and all other applicable sections of the City of Delta's Standards and Specifications for the Development and Construction of Public Improvements, and future amendments thereof.

(K) Flood Protection and Storm Drainage:

(1) Where watercourses or ditches traverse the subdivision, facilities shall be designed and provided to protect against flooding, in accordance with City Flood Plain Regulations.

(2) Stormwater discharge improvements shall be engineered and approved in accordance with City specifications and the

City Stormwater Management Manual. An adequate drainage system, including the necessary pipes, culverts, storm sewers, intersectional drains, drop inlets, bridges, and other necessary appurtenances shall be designed and installed by the subdivider according to plans and specifications adopted by the City. Detention or retention areas shall be provided for storm water drainage as needed.

(3) No discharge of urban stormwater into any irrigation ditches, pipelines, or canal facilities shall be allowed without written permission received from applicable owner of said facilities and water users.

(4) Historical flow patterns and runoff amounts shall be maintained in such a manner that preserve the natural character of the area and prevent property damage of the type generally attributed to runoff rate or velocity increase, diversion concentrations and/or unplanned ponding of storm runoff.

(5) Surface drainage shall utilize, wherever possible and practical, natural swales and retention/detention ponds. Retention and detention ponds and swales shall be planted with grass and kept mowed, and maintenance covenants placed on the plat.

(L) Street Lights: Street lights shall be provided at all intersections and at intervals between intersections conforming to City standards and specifications.

(M) Berms, screening and buffers:

(1) Where a residential lot abuts an arterial street or railroad right-of-way, the subdivider shall provide an easement of no less than twenty (20) feet, with provisions for perpetual maintenance. In this easement, the subdivider may be required to install, construct or plant effective screening in accordance with the standards set out below, or as otherwise approved by the City.

(a) The required screening may be natural planting, or constructed of brick, stone, masonry block, wood or any other materials approved by the City.

(b) Walls and fences shall be of sufficient height to function as a device to screen the property from passing traffic and to provide privacy for the residents.

(c) Trees are recommended as the most desirable screening device. When used, the subdivider is encouraged to plant the trees early in the development of the subdivision. Trees shall be planted a maximum of twenty (20) feet apart measuring from trunk to trunk.

(2) Buffers and/or screening may be required between incompatible uses both within the subdivision and adjoining the subdivision. Design shall include adequate provisions for reduction of noise and visual buffering. A parallel street, fence, landscaped buffer area or berm, or lots with increased setbacks may be required.

(N) Mail box areas: An area shall be provided for mail boxes acceptable to the Post Office, which reduces traffic hazards, with appropriate maintenance covenants on the plat.

(O) School bus stops: An area for the safe use of school buses acceptable to the School District shall be provided in residential subdivisions if requested by the School District.

(P) Agricultural protection: Subdivisions shall be designed to avoid unreasonable interference with existing agricultural operations in the area. Plat notes may be used to protect agricultural operations. Buffers shall be provided as appropriate.

(Q) Plat notes:

(1) Plat notes and covenants may be required by the City as appropriate to implement the provisions of these regulations. Plat notes shall run with the land and bind all successors in interest thereto.

(2) Any plat notes on prior County Subdivision or PUD plats, or plats of survey which created new parcels, including those notes requiring release by the County Commissioners, shall not be enforceable by the City, and are superseded unless reiterated on the plat. Plat notes which are intended to benefit lot owners within the subdivision will be reiterated unless such owners sign a document to indicate their concurrence with the proposed plat notes.

(3) Plat notes on prior City plats are superseded unless reiterated on the plat.

(R) State Highway Access: Access to State Highways shall be in accordance with the State Highway Access Code. The subdivider/developer shall be responsible for submitting the application and supporting documentation required by the Colorado Department of Transportation (CDOT), providing copies of the approved access permit from CDOT to the City as part of the preliminary plat submittal and constructing all CDOT required improvements prior to the final plat submittal. (Ord. 5, §1, 2004; Ord. 38, §5, 2006; Ord. 12, 2007; Ord. 3, §4-9, 2008)

16.04.080: SECURITY FOR COMPLETION OF IMPROVEMENTS:

(A) The intent of Section 16.04.050, Subdivision Procedure, is to have all necessary subdivision improvements constructed before recording of the final plat. A Subdivision Improvements Agreement ("SIA") on forms approved by the City shall be recorded with any final plat on which any required subdivision improvements have not been previously completed. If the subdivider wishes to have the final plat approved prior to the installation, inspection and approval of all required improvements, security must be provided to guarantee the completion of all improvements by the date specified in the SIA or, at maximum, within four (4) years after approval of the final plat in accordance with this Section. Said security shall be in the form of either of the following:

(1) A subdivision improvements and lien agreement placing an adequate lien on subdivided lots, together with an escrow account with the City into which the subdivider shall pay, prior to the sale of any lot in the subdivision, an amount to be verified by the City (with cost estimates provided by the subdivider) as follows:

- For improvements to be completed within one year of final plat approval, an amount equal to one hundred fifty percent (150%) of the pro rata cost to complete all improvements necessary to serve the pertinent lots;

- For improvements to be completed within two years of final plat approval, an amount equal to two hundred percent (200%) of the pro rata cost to complete all improvements necessary to serve the pertinent lots;
- For improvements to be completed within three years of final plat approval, an amount equal to two hundred fifty percent (250%) of the pro rata cost to complete all improvements necessary to serve the pertinent lots;

- For improvements to be completed within four years of final plat approval, an amount equal to three hundred percent (300%) of the pro rata cost to complete all improvements necessary to serve the pertinent lots; or

(2) A cash escrow deposited with the City, or a clean irrevocable letter of credit issued to the City by an acceptable lender or other issuer, in an amount to be verified by the City (with cost estimates provided by the subdivider). The amount shall be sufficient to complete all improvements necessary to serve the subdivision and shall be computed in accord with the provisions of the preceding subsection (1).

Payment in lieu of parks fees required by Section 16.04.070(G)(9) shall be collected prior to recording the final plat, and shall not be postponed by means of a subdivision improvements agreement or other arrangement.

(B) Funds in any escrow account shall be returned to the subdivider upon the completion of the improvement secured, submission of record drawings, and acceptance by the City.

(C) The subdivider shall complete all improvements by the stated completion date. In the event that all required improvements are not completed, inspected and approved by the completion date, the City may withhold further building or occupancy permits, or water taps or sewer taps in such subdivision until such improvements are completed. It shall then be unlawful to sell any further lots in the subdivision until all improvements are completed. The City may take any other lawful action to execute upon its security and otherwise enforce completion of the necessary improvements.

(D) The City Council may authorize extensions of time to complete all improvements beyond the four (4) year limitation contemplated herein. Such extensions will require review of, and will be incorporated into an amendment of, the Subdivision Improvements Agreement. (Ord. 5, §1, 2004; Ord. 15, §1, 2007)

16.04.090: MINOR SUBDIVISIONS:

(A) Subdivisions which meet all of the following criteria do not need a sketch plan or preliminary plat to be submitted.

(1) The subdivision results in no more than three (3) tracts or lots or interests.

(2) All lots or tracts are adjacent to a dedicated, accepted and constructed public street.

(3) All improvements required by these regulations other than fire hydrants, piped ditches, curb, gutter, sidewalk, and adjacent street improvements are already in existence and available to serve each lot, or have been secured. Curb, gutter and sidewalk, as required by 16.04.070(D) and piped ditches as required by 16.04.070 (H) must either be installed or security provided. Fire hydrants must be installed.

(4) Each lot will meet requirements of the City zoning regulations without the necessity for any variance and no variance has been granted within the three (3) previous years.

(5) No part of the subdivision has been approved as part of a minor subdivision or lot split within three (3) years prior to the date of submission of the minor subdivision plat.

(6) The subdivision must comply with the design standards of Section 16.04.070.

(B) Fifteen (15) copies of the minor subdivision plat shall be filed with the City, accompanied by an application and a filing fee in the amount set by City Council. Plats shall be stapled or otherwise bound, and folded. Plats which substantially conform to the submittal requirements must be received a minimum of twenty-one (21) days prior to a regularly scheduled Planning Commission meeting in order to be placed on the agenda.

(C) The plat shall meet the requirements for a final plat as required by subsection 16.04.050(E)(4), except that the Engineer's Certificate may be deleted.

(D) Following receipt of a plat and application for approval of a minor subdivision accompanied by the required fee which appear to comply with this Section, review shall be scheduled before the Planning Commission at which the applicant will have the burden of showing that the conditions specified in sub-section 16.04.090(A) above have been met. The Planning Commission may either recommend approval, disapproval or conditional approval of the plat subject to compliance with any minimum design standards; to dedication of additional right-of-way, easements, open space or park land; or to installation of additional improvements.

(E) Unless the subdivider withdraws the plat, it shall be submitted to the City Council for review and action. The Council may approve the plat, approve it subject to conditions

necessary to implement the provisions of this Chapter, or disapprove the final plat if it finds that the requirements of these regulations have not been met.

(F) No final plat shall be recorded by the City until:

(1) All of the improvements required by these subdivision regulations have either been installed, inspected and approved by the City or a subdivision improvements agreement for the improvement(s) with a security arrangement in accordance with the provisions of Section 16.04.080 of these regulations has been properly executed by the subdivider on forms approved by the City.

(2) Two reproducible mylars of the plat in final form fully executed by all required parties except the City, along with a diskette in a digital format acceptable to the City, and compatible with the City's GIS system have been submitted.

(3) Payment to the City of all reimbursable expenses has been received.

(4) Final plat approval shall expire if the requirements of this paragraph (F) are not met within 90 days of approval. (Ord. 5, §1, 2004)

16.04.100: LOT SPLITS:

(A) Subdivisions which meet all of the following criteria do not need a sketch plan or preliminary plat to be submitted and may be approved administratively by the City Manager or his designee.

(1) The subdivision results in no more than two (2) tracts or lots or interests.

(2) All lots or tracts are adjacent to a dedicated, accepted and constructed public street.

(3) The lots are part of a subdivision plat that has been approved and/or accepted by the City or Delta County and recorded in the Delta County Records.

(4) All improvements required by these regulations other than fire hydrants, piped ditches, curb, gutter, sidewalk, and adjacent street improvements are already in existence and available to serve each lot, or have been secured.

Curb, gutter and sidewalk, as required by 16.04.070(D) and piped ditches as required by 16.04.070(H) must either be installed or security provided. Fire hydrants must be installed.

(5) Each lot will meet requirements of the City zoning regulations without the necessity for any variance and no variance has been granted within the three (3) previous years.

(6) No part of the subdivision has been approved as part of a minor subdivision or lot split within three (3) years prior to the date of submission of the minor subdivision plat.

(7) No material changes to existing easements, plat notes, or restrictions which are for the benefit of third parties shall be made.

(8) The subdivision must comply with the design standards of Section 16.04.070.

(B) Seven copies of the lot split plat shall be filed with the City, accompanied by an application and a filing fee in the amount set by City Council. Plats shall be stapled or otherwise bound, and folded.

(C) The plat shall meet the requirements for a final plat as required by subsection 16.04.050(E)(4) except that the plat shall contain Certification on forms approved by the City to document approval of the plat, including but not limited to the following:

(1) The name of the subdivision and the name, address and phone number of the subdivider, and his representative if applicable.

(2) A certificate by a registered surveyor, attesting to the accuracy of the survey plat and placement of monuments, and compliance with the requirements of this Chapter and State law.

(3) The name of the surveyor preparing the plat and the date of the plat

(4) A certificate of an attorney that title to the property is in the name of those parties executing the dedication, and that property dedicated to the City will be

free and clear of all liens and encumbrances affecting marketability.

(5) A certificate of recording to be executed by the County Clerk and Recorder.

(6) A certificate of dedication (when applicable), ownership, and acknowledgement.

(7) A lienholder's certificate (if applicable).

(8) Separate certificates of approval of the plat for the City Manager and City Attorney.

(D) The City Manager or his designee may either approve the plat, approve it subject to dedication of required street right-of-way, easements for access, ditches, pipelines, or proposed or existing utilities and appurtenances, or disapprove the plat if it finds that the requirements of these regulations have not been met.

(E) No final plat shall be recorded by the City until:

(1) Two reproducible mylars of the plat in final form fully executed by all required parties except the City, along with a diskette in a digital format acceptable to the City, and compatible with the City's GIS system have been submitted.

(2) Payment to the City of all reimbursable expenses has been received.

(3) Final plat approval shall expire if the requirements of this paragraph (E) are not met within 90 days of approval. (Ord. 5, §1, 2004)

16.04.110: REPLATS:

(A) Replats which meet all of the following criteria may be submitted without a sketch plan or preliminary plat.

(1) The plat, as amended, does not increase the number of lots or reduces the number of lots within the subdivision; or the nature of the amendment is de minimis.

(2) All lots or tracts are adjacent to a dedicated and constructed public street.

(3) The lots are part of a subdivision plat which has been approved and/or accepted by the City or Delta County and recorded in the Delta County Records.

(4) All improvements required by these regulations other than fire hydrants, piped ditches, curb, gutter, sidewalk, and adjacent street improvements are already in existence and available to serve each lot, or have been secured. Curb, gutter and sidewalk, as required by 16.04.070(D) and piped ditches as required by 16.04.070(H) must either be installed or security provided. Fire hydrants must be installed.

(5) Each lot will meet requirements of the applicable City Zoning regulations without the necessity for any variance and no variance has been granted within the three (3) previous years.

(6) No material changes to existing easements, plat notes, or restrictions which are for the benefit of third parties shall be made.

(7) The subdivision must comply with the design standards of Section 16.04.070.

(B) Seven (7) copies of the plat shall be filed with the City accompanied by an application and a filing fee in the amount set by City Council. Plats shall be stapled or otherwise bound, and folded.

(C) The plat shall meet the requirements for a final plat as required by subsection 16.04.050(E)(4) except that the plat shall contain Certificates on forms approved by the City to document approval of the plat, including but not limited to the following:

(1) The name of the subdivision and the name, address and phone number of the subdivider, and his representative if applicable.

(2) A certificate by a registered surveyor, attesting to the accuracy of the survey plat and placement of monuments, and compliance with the requirements of this Chapter and State law.

(3) The name of the surveyor preparing the plat and the date of the plat

(4) A certificate of an attorney that title to the property is in the name of those parties executing the dedication, and that property dedicated to the City will be free and clear of all liens and encumbrances affecting marketability.

(5) A certificate of recording to be executed by the County Clerk and Recorder.

(6) A certificate of dedication (when applicable), ownership, and acknowledgement.

(7) A lienholder's certificate (if applicable).

(8) Separate certificates of approval of the plat for the City Manager and City Attorney.

(D) The City Manager or his designee may either approve the plat, approve it subject to dedication of required street right-of-way, easements for access, ditches, pipelines, or proposed or existing utilities and appurtenances, or disapprove the plat if it finds that the requirements of these regulations have not been met.

(E) No final plat shall be recorded by the City until:

(1) Two reproducible mylars of the plat in final form fully executed by all required parties except the City, along with a diskette in a digital format acceptable to the City, and compatible with the City's GIS system have been submitted.

(2) Payment to the City of all reimbursable expenses has been received.

(3) Final plat approval shall expire if the requirements of this paragraph (E) are not met within 90 days of approval. (Ord. 5, §1, 2004)

16.04.115: BOUNDARY ADJUSTMENTS

(A) Subdivisions which are intended to adjust the boundary line between two adjacent parcels may be processed pursuant to this section so long as the boundary adjustment or transaction does not result any of the following:

(1) The reconfiguration of a lot into one which does not meet all other requirements of the Delta City Code including, but not limited to, those related to such land

use and development considerations as zoning, building setback restricts for existing structures, and depth requirements for new frontage.

(2) The creation of a new lot or parcel.

(3) Elimination of access from any lot or parcel to the street system.

(4) The subdivision shall comply with the design standards of Section 16.04.070.

(B) Boundary adjustments do not need a sketch plan or preliminary plat to be submitted and may be approved administratively.

(C) Seven copies of the boundary adjustment plat shall be filed with the City, accompanied by an application and a filing fee in the amount set by City Council. Plats shall be stapled or otherwise bound, and folded.

(D) (1) The plat shall comply with applicable provisions of C.R.S. 38-51-101 et seq. and C.R.S. 38-44-112 and meet the requirements for a final plat as required by subsection 16.04.050(E)(4) except that the plat shall contain Certificates on forms approved by the City to document approval of the plat, including but not limited to the following:

(a) The name of the subdivision and the name, address and phone number of the subdivider, and his representative if applicable.

(b) A certificate by a registered surveyor, attesting to the accuracy of the survey plat and placement of monuments, and compliance with the requirements of this Chapter and State law.

(c) The name of the surveyor preparing the plat and the date of the plat

(d) A certificate of an attorney that title to the property is in the name of those parties executing the dedication, and that property dedicated to the City will be free and clear of all liens and encumbrances affecting marketability.

(e) A certificate of recording to be executed by the County Clerk and Recorder.

(f) A certificate of dedication (when applicable), ownership, and acknowledgement.

(g) A lienholder's certificate (if applicable)

(h) Separate certificates of approval of the plat for the City Manager and City Attorney.

(E) The City Manager or his designee may either approve the plat, approve it subject to dedication of required street right-of-way, easements for access, ditches, pipelines, or proposed or existing utilities and appurtenances, or disapprove the plat if it finds that the requirements of these regulations have not been met.

(F) No final plat shall be recorded by the City until:

(1) Two reproducible mylars of the plat in final form fully executed by all required parties except the City, along with a diskette in a digital format acceptable to the City, and compatible with the City's GIS system have been submitted.

(2) Payment to the City of all reimbursable expenses has been received.

(3) Final plat approval shall expire if the requirements of this paragraph (F) are not met within 90 days of approval.

(4) Draft copies of the deeds should be submitted if there will be a monetary exchange and formal closing, otherwise original executed deeds should accompany the plat. (Ord. 5, §1, 2004; Ord. 28, §1, 2006; Ord. 3, §10, 2008)

16.04.120: PLAT AMENDMENTS, CORRECTIONS AND MINOR MODIFICATIONS:

(A) Changes to lawfully recorded subdivision plats which meet any of the following criteria may be initiated by the City Manager and be reviewed and approved pursuant to this section in lieu of other procedures of this Chapter.

(1) Changes due to clerical errors or omissions.

(2) Minor reconfiguration of an easement.

(3) Minor changes to plat notes and restrictions.

(4) De Minimus changes to a plat.

(B) A document such as an affidavit of amendment may be used to implement the change, unless a new plat is needed to adequately depict the amendment. Such document shall be recorded after approval by the City.

(C) Such changes may be reviewed and approved by the City Manager, except changes involving third party rights or provisions for the benefit of third parties shall be referred to the Planning Commission for recommendation and to the City Council for review and action.

(D) Such changes shall be consistent with the requirements of these regulations.

(E) Any person requesting such a change shall pay fees, as set by Council and Subsection 16.04.140. (Ord. 5, §1, 2004)

16.04.125: COMBINING EXISTING TAX PARCELS:

(A) Consolidation of two (2) or more adjacent lots or parcels which are held under the same ownership with the intention of creating a single parcel for tax purposes can be accomplished without City approval by executing a deed which contains the following language:

> The foregoing lots or tracts of land shall be considered as a single tract of land for purposes of application of the City of Delta Subdivision Regulations and cannot be redivided except as pursuant to such regulations.

(B) Once such a deed is recorded, the entire tract may only be subdivided by complying with the provisions of this Chapter. (Ord. 5, §1, 2004)

16.04.130: REVIEW HEARING:

(A) Upon City Council action concerning either a preliminary or final plat, the subdivider may request, in writing and filed with the City Clerk within 30 days of said action, a review hearing before the City Council.

(B) The review hearing shall be limited to review of:

(1) denial of the plat; or

(2) all terms and conditions imposed as a requirement of approval of the plat.

(C) The Council shall issue a written decision on the matter. (Ord. 5, §1, 2004)

16.04.140: COST RECOVERY:

The subdivider shall reimburse the City for all out-of-pocket costs incurred during review of the subdivision, including legal fees, postage, notice and publishing costs, map costs, inspection, engineering fees, etc., plus 10% to cover overhead and administration. The City shall bill the subdivider periodically as such costs are incurred. Each bill shall be due 30 days after its date. Bills not paid by the due date shall accrue interest at the rate of 1-1/2% per month or part thereof. No plat shall be recorded, improvements accepted, lien released, building permit issued, tap approved, or other approval action taken until all fees then due are paid to the City. Such fees may be certified to the County Treasurer for collection as delinquent charges, or collected in any lawful manner. (Ord. 5, §1, 2004)

16.04.150: EXTRATERRITORIAL SUBDIVISIONS:

(A) In addition to other requirements of this Chapter, the following will apply to those subdivisions which are processed by the City under the terms of the Growth Management Agreement between the City of Delta and Delta County. These terms do not apply, however, to those properties for which a request for annexation has been received by the City, applicable fees have been paid, and the City Council has passed a resolution to annex said parcel.

(B) Applications must be completed for all new water and sewer taps which are needed to serve lots within the subdivision. A properly executed Utility Connection and Annexation Agreement, and payment of system improvement and tap fees must be received prior to recording the plat. Fees as outlined in Section 13.04.040.A.5 of the Municipal Code will be applied to all taps.

(C) Applicants will be required to mail notice of the date, time and place of the Planning Commission review of their subdivision proposal to all adjacent property owners. Notices

should be hand delivered or placed in the U.S. Mail at least one week prior to the scheduled Planning Commission meeting.

(D) Lot sizes shall conform to the standards of the A-1 zoning district. (Ord. 5, §1, 2004)

Chapter 16.05

CLUSTER DEVELOPMENT, PLANNED UNIT DEVELOPMENT, AND ZERO LOT LINE DEVELOPMENT

Sections:

16.05.01 Purpose. The purpose of the Planned Unit Development, sometimes in this Chapter referred to as PUD, is to provide the opportunities to create more desirable environments through the application of flexible and diversified land development standards under a comprehensive plan. It is further intended to achieve economics in land development, maintenance, street systems, and utility networks while providing building groupings for privacy, usable attractive open spaces, safe circulation, and to protect the general well-being of the inhabitants.

The purpose of Zero Lot Line Development and Cluster Development is to allow multiple ownership of single building envelopes such as condominiums, town homes, office and retail space. Cluster development is encouraged to preserve environmentally sensitive areas, open space and agricultural lands.

16.05.020 General provisions.

A. Planned Unit Developments, Zero Lot Line Developments and Cluster Developments may include the uses allowed by right in the zoning district in which the development is located.

B. The zoning and subdivision regulations contain the minimum standards for any development. Where modifications of those standards is in keeping with the intent of this Chapter and can be documented to show beneficial effects, such modification may be permitted.

16.05.030 Definitions. Those terms specific to PUD's, Zero Lot Line Developments and Cluster Developments are defined for use in this Chapter as set forth in this Section.

Additional definitions may be found in Section 16.04.030 of The Subdivision Regulations.

A. “Cluster Development” means lots that are smaller and arranged differently than otherwise allowed to allow conservation of farm land, wildlife areas or common open space.

B. “Common Area” means area used and maintained by all owners located in the development.

C. “Common open space” means a parcel of land, an area of water, or a combination of land and water within the site designated and intended primarily for the use or enjoyment of residents, occupants and owners of the Planned Unit Development. In a single-family PUD, private yards may be considered common open space.

D. “Limited Common Element” means an area restricted to use by the units (area) designated.

E. “Plan” means the provisions for development, which may include and need not be limited to easements, covenants and restrictions relating to use, location and bulk of buildings and other structures, intensity of use or density of development, utilities, private and public streets, ways, roads, pedestrian areas, and parking facilities, common open space, and other public facilities.

F. “Planned Unit Development” means an area of land, controlled by one or more landowners, to be developed under unified control or unified plan of development for a number of dwelling units, commercial, educational, recreational or industrial uses, or any combination of the foregoing, the plan for which does not correspond in lot size, bulk or type of use, density, lot coverage, open space, or other restrictions to the existing land use regulations.

G. “Provisions of the plan” means the written and graphic materials and other contents of the “plan” defined by subsection E of this Section.

H. “Zero Lot Line Development” refers to buildings that may be attached to each other with a common wall or directly adjacent to each other on one lot boundary line.

16.05.040 Submission and review of cluster development plans.

A. Cluster developments shall follow sections 16.04.010 through 16.04.080, exempting 16.04.070.E with the following additional requirements:

1. Interior setbacks of individual ownership may be modified to fit the needs of the specific cluster development. The exterior setbacks of the entire development shall meet the tabled setback for the appropriate zone.

2. Twenty-five percent of the gross acreage must be open space.

3. The minimum lot size maybe reduced if the aggregate size of the total platted cluster development meets the total of all lots minimum size requirements, including open space, however streets and roads may not be counted towards open space.

4. The perimeter of the cluster development which abuts a right-of-way shall be buffered. All, or a portion of, the open space may be located between the clustered development and adjoining development.

5. The project landscaping and buffer design shall be established as part of any preliminary subdivision plan approval.

6. A cluster development project may be developed in phases. The City may require the applicant to divide the project into phases in order to meet requirements and standards contained in these regulations. Each phase must be self-sufficient with adequate facilities and services and contain a mix of residential uses and densities and open space, while meeting the requirements, standards and conditions applicable to the project as a whole.

7. All cluster developments shall establish a Home Owner's Association or other entity to maintain the common area.

16.05.050 Submission and review of a Planned Unit Development.

A. A PUD shall be located along a major street of at least collector status as shown on Major Street Plan as adopted by the Planning Commission, with access to the street approved by the City Planning Commission.

B. PUDs shall follow Sections 16.04.010 through 16.04.080 (but excepting provisions of subsection 16.04.070E.) with the following additional requirements:

1. Final plan showing the location and size of all existing and proposed buildings, structures and improvements and their uses;

2. Certification showing the landowner dedicates or reserves areas of common open space;

3. Final plan showing the density and type of dwelling to be built within the PUD to include the maximum height of all buildings;

4. Final plan showing the internal traffic circulation system, off-street Parking areas, service area, loading areas and major points of access to a public right-of-way;

5. Final plan showing the location, height and size of signs, lighting and advertising devises;

6. Final landscaping plan showing the spacing, sizes and specific type of landscaping material;

7. A legal description of the PUD;

8. A final report explaining the character and objectives to be achieved by the PUD;

9. A final report describing the development schedule indicating when construction will start and when the PUD will be completed;

10. Final copies of any special agreements, conveyances, restrictions or covenants which will govern the use, maintenance and continues protection of the PUD and the common open space areas.

C. Minimum design standards. The provisions of Section 16.04.070 (with the exception of the provisions of Subsection E. thereof), are hereby incorporated in this subsection C. and made a part thereof by this reference.

1. In addition to the requirements set forth Subsection A of said Section 16.04.070, the following will be required for a PUD:

a. The uses in a planned unit must be uses permitted of right or permitted by special review in the zoning district in which the planned unit is located. In addition, uses by right in business districts shall be uses by special review in residential planned units, and may be permitted if, in the opinion of the Planning Commission, such uses, if any, to be allowed in a residential planned unit shall be established by the Planning Commission on the basis of these criteria.

b. The planned unit's relationship to its surroundings shall be considered in order to avoid adverse effects to the development caused by traffic circulation, building height or bulk, lack of screening or intrusion on privacy;

c. Minimum lot area requirements are established in the Subdivision Regulations. These requirements may be modified by the Planning Commission if the developer indicates that such changes are in keeping with the intent of this Title 16. The Planning Commission must review all PUD's

with respect to living space, common open space, parking spaces and traffic circulation.

d. Common Open Space.

i. Common open space shall comprise at least twenty-five percent of the total gross area of a residential PUD. Such open space will be developed and designed for the use of the occupants of the development and shall contain therein adequate space for active recreational activities, and adequately landscaped walkways and parks. Common open space does not include space devoted to streets, parking and loading areas.

ii. The Planning Commission may exempt nonresidential PUD's from the common open space requirement if it finds the development will provide for the occupants' or customers' needs for open space in whole or in part by either or a combination of :

(1). Public park, mall or recreation features, or a combination thereof, for which the site of the planned unit has or will be levied a special assessment; or

(2). Developed facilities in the planned unit, such as but not limited to common recreational areas or facilities, plazas, balconies or rooftops improved for recreational uses.

iii. A reduction in common open space or lot area per dwelling unit shall not be permitted if such reduction would be detrimental to the character of the proposed planned unit or the character of the surrounding area.

iv. The Planning Commission may determine that all or a part of stream areas, bodies of water, and slopes in excess of fifteen percent may be included as usable open space. In making this determination, the Planning Commission shall be guided by the following factors:

(1). The extent of those areas in relation to the area of the planned unit; and

(2). The degree to which these areas contribute to the quality, livability and amenity of the planned unit.

e. Off-street parking will be determined by the subdivision/zoning regulations. These regulations may be altered by the Planning Commission if the character of the PUD is such that changes to the requirements are in keeping with the intent of this Title.

16.05.060 Submission and review of zero lot line development plan.

A. Zero lot line developments shall follow sections

16.04.010 through 16.04.080, with the exception of the provisions of Subsection 16.04.070.E) with the following additional requirements:

1. The outside boundary of the permissible building envelope for each lot must be graphically depicted on the plat to be recorded. Any existing buildings must also be depicted on the plat.

2. Multiple plan and elevation view plats are required if a building has more than one story, or if there is a basement located in the building.

3. The setbacks for the original parcel must be met for the appropriate zone, interior setbacks may be zero, and may be through a building or buildings creating individual ownership properties or may divide the original parcel into two or more parcels with individual ownership.

4. Recorded covenants shall provide for the maintenance of common walls, other common areas, limited common areas, and common spaces.

5. All business entities must follow CRS 38-30-172 Statement of Authority.

6. All buildings must meet current building code regulations.

7. Lawfully existing non-conforming uses are not allowed in zero lot line developments.

8. Separate utilities are required for each unit.

16.05.070 Changes to any adopted plans in this Chapter.

A. Minor Plan Changes. The terms, conditions of an adopted plan may be changed from time to time provided as follows: The City's development department director, or other agent as authorized by the City Manager, may approve minor modifications in the location of streets and underground utilities and in the location, sizing and height of buildings and structures if required by engineering or other circumstances not foreseen at the time the plan was formally approved, so long as the modification does not result in:

1. An increase of more than five percent (5%) in the gross residential density;

2. An increase of more than five percent (5%) in the floor area proposed for nonresidential use of a commercial or industrial nature;

3. An increase of more than five percent (5%) in the total ground area covered by buildings except in single-family residential areas; and

4. A reduction of more than three percent (3%) in the area set aside for common open space.

B. Plan Changes Involving Land Uses. Any uses that are not approved in a final plan but are allowable in the pertinent zoning district as a permitted use may be added to the plan upon approval of any such alteration by the Planning Commission and City Council at regularly scheduled meetings.

C. Major Plan Changes. All other modifications of an adopted and recorded plan shall be regarded as "major modifications", and shall be subject to the following application and review procedures:

1. Any application for major modifications of a previously approved and recorded plan shall be submitted on forms provided by the City, and a fee equal to that which is required for the initial filing of a full plan shall be paid to the City at the time of any such application.

2. Review and approval of any application filed pursuant to this subsection C shall be subject to compliance with all the criteria and procedural steps required for review and approval for filing a sketch plan. Such review and approval shall also be subject to compliance with all other applicable City Code sections that may be generally contemplated. Complete engineering and design drawings of the proposed major modification of a plan shall be submitted with the application therefore, detailing the proposed changes and demonstrating compliance with all legal requirements.

3. A public review process generally following the procedures set forth in the Delta Municipal Code shall also be required as a pre-condition of approval of any major modification of a plan. In that regard, the concept of notice to owners of record required under Delta Municipal Code Section 17.04.290(D) (3) shall be expanded to include all record owners of properties within the boundaries of the originally approved plan and all record owners of properties immediately adjoining said boundaries and within a distance of five hundred feet (500') plus the width of any intervening public right-of-way.

4. The City Planning Commission may recommend for ultimate approval by the City Council the proposed major changes to a plan if it determines that all of the following criteria are substantially met:

a. The requested change will not adversely affect the public health, safety and welfare.

b. The requested change is the minimum that will afford relief and allow for reasonable use of the property sought to be affected by the application.

c. The requested change will not result in development that is incompatible with other property uses and/or building improvement within the pertinent boundaries or in the

adjoining areas, and will not substantially impair the value or development of such other property within or outside of the area covered by the originally approved plan.

5. The City Planning Commission may impose such additional conditions of approval as may be reasonably necessary to ensure that the above criteria are met. (Ord. 15, §2, 2012)

TITLE 17

LAND USE REGULATIONS

Chapters:

Chapter 17.04

ZONING REGULATIONS

Sections:

17.04.010 General provisions.

A. This Chapter, as amended from time to time, and the Official Zoning Map (adopted by Section 2 of Ordinance 4, 1999) as amended from time to time, may be cited as the City's zoning regulations or zoning ordinance.

B. The purpose of these zoning regulations is to promote the public health, safety and welfare, and the convenience, order, prosperity and welfare of the present and future inhabitants of the City by lessening congestion on public rights-of-way; securing safety from fire, floodwaters and other dangers; providing adequate light and air; protecting the tax base of the City; securing economy in governmental expenditures; conserving the value of property; protecting both urban and nonurban development; and encouraging the most appropriate use of land.

C. The City hereby declares that the regulation and development of land, including regulation by these zoning regulations, is exclusively a matter of local and municipal concern, and any provision of any Statute or regulation of the State in conflict with the provisions of these zoning regulations, or any limitation imposed by any Statute or regulation of the State otherwise applicable are hereby superseded; provided, however, the City shall retain any and all powers authorized by State law with respect to land development regulations and zoning even though not specified within this Chapter, and such powers may be exercised in any lawful manner free from any limitations imposed by State Statute or regulation. (Ord. 4 §1, 1999)

17.04.020 Definitions.

A. The following words and terms shall be defined as follows for the purposes of these zoning regulations:

1. ACCESSORY USE: A use which is subordinate to, clearly incidental to, customarily in connection with, and ordinarily located on the same premises as the permitted use. Child care facilities which meet the criteria set out in subsection 17.04.240 (D) and adult care facilities which meet the criteria set forth in subsection 17.04.240(F) shall be considered an accessory use to a residence in all districts. Home occupations which meet the criteria set out in subsection 17.04.240(A) shall be considered an accessory use to a residence in all districts. The provision of services to a use on a site involving the temporary use of vehicles or mobile equipment shall be considered accessory to the use utilizing such services at such site.

2. ADULT CARE FACILITY: A facility which meets all applicable state and federal requirements and is certified by the state to provide adult day care services to eligible persons and which provides care and supervision for adults needing such care and supervision, other than for adults living in the residence.

3. ASSISTED LIVING FACILITY: A facility which provides a place to live for children, elderly, developmentally disabled, or disabled individuals, which also provides a limited staff to provide assistance to the residents, but does not include hospitals or nursing homes.

4. BED AND BREAKFAST OPERATIONS: A residential building where, for compensation, temporary lodging is provided in a “family” atmosphere for thirty days or less, with only the breakfast meal provided and a manager residing on the premises,

with not more than four guest rooms (which may not contain food preparation facilities). Such use shall not include accessory uses such as newsstands or gift shops.

5. CHILD CARE FACILITY: Any facility, including a residence, which provides care and supervision for children other than children of the family living in a residence, including foster homes, day care homes and centers, but excluding schools, jails and detention facilities.

6. CONDITIONAL USE: A use which is permitted only after review and approval pursuant to Sections 17.04.250 and 17.04.290.

7. DUPLEX: A residence with two (2) dwelling units in a single building.

8. DWELLING UNIT: An area in a building containing cooking, living and sanitary facilities designed for use, or used, by a single family for residential purposes.

9. FACTORY BUILT HOUSING: Dwelling units which are substantially or entirely manufactured in a factory or other facility and thereafter moved onto property sites, in one or more component parts, including homes commonly known as “mobile homes” and “modular homes,” and those which are manufactured and certified pursuant to 42 USC 540 et seq., or manufactured and certified pursuant to other construction standards; excepting, however, all Allowed Modular Housing which is hereby defined as a properly completed and City approved assembly of one or more modular dwelling units, and components thereof, that are manufactured off-site and specially certified by the State of Colorado to meet the architectural and safety standards of the building code, as adopted by the City of Delta under Delta Municipal Code Chapter 15.04, and bear the State’s official insignia attesting to such special certification.

10. FAMILY: One or more individuals occupying a single dwelling unit and living as a single housekeeping unit with a maximum of eight (8) adults.

11. GAS STATION: Any building or lot having facilities for the sale of gasoline and other fuels for use by motor vehicles, which may include incidental facilities for service and minor repair of motor vehicles.

12. GOVERNMENT BUILDINGS AND FACILITIES: Any building or facility owned and operated by the United States of America, the State of Colorado, the City of Delta, or any agency or political subdivision thereof.

13. HOME OCCUPATION: Any commercial activity, whether for profit or non-profit, conducted within a dwelling unit or accessory garage.

14. HOMEOWNERS’ ASSOCIATION: Any entity, whether a corporation, partnership, unincorporated association, or other entity existing for the purpose of maintaining commonly owned facilities or enforcing private protective covenants whose members or shareholders are the property owners involved.

15. MOBILE HOME AND MOBILE HOME PARK: Mobile home and mobile home park are defined as defined in Chapter 15.52 of this Code.

16. MULTIPLE FAMILY RESIDENCE: Any residence with three (3) or more dwelling units in a single building.

17. NONCONFORMING USE: A use which does not comply with the use regulations, dimensional requirements or other regulations of these zoning regulations.

18. PUBLIC UTILITY SERVICE FACILITIES: Transmission and distribution facilities for natural gas, electricity, telephone, and cable television necessary to provide service to customers located in the various districts of the City, such as pipes, lines, mains, wires, transformers, valves, and other related appurtenances, but not including buildings, offices, and production or generation facilities, antennas, transmitters, receivers, and related structures.

19. RESIDENTIAL DISTRICTS: Residential Districts include the A-1, R-R, R-1, R-1A, R-2, R-3, R-4, MHR, MR, and OR Districts.

20. TRAVEL HOME AND TRAVEL HOME PARK: Travel home and travel home park are defined as defined in Chapter 15.52 of this Code.

21. USE: The activity or purpose for which property, a building or other structure is designed, arranged, intended, occupied or maintained.

22. USE-BY-RIGHT: A use which is permitted or allowed in the district involved, without review by the Planning Commission, and complies with the provisions of these zoning regulations and other applicable City ordinances and regulations. (Ord. 4, §1, 1999; Ord, 31, §1, 2000; Ord. 9, §11, 2004; Ord. 7, §1 & §2, 2005; Ord. 4, §1, 2008)

17.04.030 Zoning map.

A. The 1999 Revised Zoning Map of the City, (as adopted by Section 2 of Ordinance 4, 1999), as such may be amended from time to time, may be known or cited as the Official Zoning Map of the City.

B. Amendments to the Official Zoning Map may be made by an ordinance enacting a revised map or by an ordinance amending portions of the Official Zoning Map, by specifying the description of the property to be rezoned. A copy of the Official Zoning Map, as amended from time to time, shall be maintained in City Hall available for public inspection. Periodically, copies of the Official Zoning Map, as amended, may be reproduced and made available to the public.

C. The regulations and limitations on uses for the various districts provided for in this Chapter shall apply within the boundaries of each such district as indicated on the Official Zoning Map. The district boundaries, as shown on the Official Zoning Map, shall be construed to follow the center lines of streets, to follow platted lot lines or the lines of undivided parcels of property, or to follow the City limits when the

boundary is shown as approximately in the vicinity of such lines. Distances may be determined by the scale of the map. (Ord. 4, §1, 1999)

17.04.040 A-1 District.

A. INTENT: The intent of this District is to provide a district with a rural atmosphere for residential uses and agriculturally related uses.

B. USES BY RIGHT:

1. Single family homes and duplexes.
2. Farms and ranches, including keeping livestock and poultry.
3. Farming and truck gardening, including sales of produce grown on the premises.
4. Golf courses.
5. Grange halls.
6. Public utility service facilities.
7. Government buildings and facilities.
8. Parks and recreation facilities owned or operated by a homeowners' association.
9. Churches.
10. Rodeo grounds.
11. Accessory uses.
12. Assisted living facilities with no more than 8 residents.
13. Cemeteries.
14. Horse training facilities with adequate offstreet loading and parking areas, and dust control, and no more than one horse per acre on the site at any time.

C. CONDITIONAL USES:

1. Greenhouses, turf and sod farms, nurseries.
2. Fur farms, kennels, commercial poultry farms, and commercial feed yards and lots.
3. Bed and breakfast operations.
4. Child care facilities not allowed as an accessory use.
5. Horse training facilities with more than one horse per acre on the premises at any time.
6. Adult care facilities.

D. PERFORMANCE STANDARDS: Both site built and factory built housing shall be constructed in compliance with applicable provisions of Chapters 15.04 or 15.05 of the Delta Municipal Code, shall be permanently attached to a permanent foundation, shall have brick, wood, masonry, stucco or cosmetically equivalent exterior surfaces, shall have a minimum width and length of not less than 20' each, and a minimum eave overhang of 12 inches. Provided, however, if a lawfully existing factory built or site built structure is determined by the City to be unsafe pursuant to §102 of the Uniform Building Code, or substantially substandard with respect to current provisions of the building, plumbing, mechanical, fire, and electrical codes,

it may, if removed from the premises, be replaced by a site built or factory built house which meets all of the above minimum criteria other than the width and length and eave overhand requirements. (Ord. 4, §1, 1999; Ord. 31, §5, 2000; Ord. 9, §5, 8 & 9, 2004; Ord. 9, §3, 2005)

17.04.050 R-R District.

A. INTENT: The R-R District is intended to provide an area of large single family residential lots with semi-rural environment for site built homes.

B. USES BY RIGHT:

1. Single family homes.
2. Public utility service facilities.
3. Government buildings and facilities.
4. Parks and recreation facilities owned or operated by a homeowners' association.
5. Accessory uses.

C. PERFORMANCE STANDARDS: No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A)(9), shall be authorized. Any Allowed Modular Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit. (Ord. 4, §1, 1999; Ord. 4, §2, 2008)

17.04.060 R-1 District.

A. INTENT: The R-1 District is intended to provide a quiet, low-density development for site built single family residences.

B. USES BY RIGHT:

1. Single family homes.
2. Public utility service facilities.
3. Government buildings and facilities.
4. Parks and recreation facilities owned or operated by a homeowners' association.
5. Assisted living facilities with no more than 8 residents
6. Accessory uses.

C. CONDITIONAL USES:

1. Child care facilities not allowed as an accessory use.
2. Adult care facilities not allowed as an accessory use.

D. PERFORMANCE STANDARDS: No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A)(9), shall be authorized. Any Allowed Modular

Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit. (Ord. 4, §1, 1999; Ord. 7, §4, 2005; Ord. 4, §3, 2008)

17.04.070 R-1A District.

A. INTENT: The R-1A District is intended to provide a quiet, low-density development for single family residences, site built or factory built homes.

B. USES BY RIGHT:

1. Single family homes.
2. Public utility service facilities.
3. Government buildings and facilities.
4. Parks and recreation facilities owned or operated by a homeowners' association.
5. Assisted living facilities with no more than 8 residents.
6. Accessory uses.

C. CONDITIONAL USES:

1. Child care facilities not allowed as an accessory use.
2. Adult care facilities not allowed as an accessory use.

D. PERFORMANCE STANDARDS: Both site built and factory built housing shall be constructed in compliance with applicable provisions of Chapters 15.04 or 15.05 of the Delta Municipal Code, shall be permanently attached to a permanent foundation, shall have brick, wood, masonry, stucco or cosmetically equivalent exterior surfaces, shall have a minimum width and length of not less than 20' each, and a minimum eave overhang of 12 inches. (Ord. 4, §1, 1999; Ord. 7, §5, 2005)

17.04.080 R-2 District.

A. INTENT: The R-2 District is intended to provide an area which is suitable for single family homes and duplexes. This District provides for other uses which are compatible with such uses.

B. USES BY RIGHT:

1. Single family homes and duplexes.
2. Public utility service facilities.
3. Government buildings and facilities.
4. Parks and recreation facilities owned or operated by a homeowners' association.
5. Churches.

6. Assisted living facility with no more than 8 residents.
7. Accessory uses.
8. Bed and breakfast operations which are limited to no more that two guest rooms.

C. CONDITIONAL USES:
1. Child care facilities not allowed as an accessory use.
2. Adult care facilities not allowed as an accessory use.

D. PERFORMANCE STANDARDS: No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A)(9), shall be authorized. Any Allowed Modular Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit. (Ord. 4, §1, 1999; Ord. 31, §1, 2000; Ord. 7, §6, 2005; Ord. 4 §4, 2008)

17.04.090 R-3 District.

A. INTENT: The R-3 District is intended to provide an area which is suitable for single family homes, duplexes and multi-family residences with intermediate overall density. This District provides for other uses which are compatible with such residential uses.

B. USES BY RIGHT:
1. Single family homes, duplexes, multi-family residences.
2. Public utility service facilities.
3. Government buildings and facilities.
4. Parks and recreation facilities owned or operated by a homeowners' association.
5. Churches.
6. Assisted living facilities.
7. Bed and breakfast operations.
8. Child care facilities.
9. Accessory uses.
10. Adult care facilities.

C. CONDITIONAL USES:
1. Nursing homes for the aged, invalid, ill, or mentally impaired.

D. PERFORMANCE STANDARDS: No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A)(9), shall be authorized. Any Allowed Modular Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in

accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit. (Ord. 4, §1, 1999; Ord. 7, §7, 2005; Ord. 4, §5, 2008)

17.04.100 R-4 District.

A. INTENT: The R-4 District is intended to provide for high density multiple family residences and to allow variable densities. It allows variety in the types of residences and other compatible uses.

B. USES BY RIGHT:

1. Single family homes, duplexes, and multiple family residences.
2. Public utility service facilities.
3. Government buildings and facilities.
4. Parks and recreation facilities owned or operated by a homeowners' association.
5. Churches.
6. Bed and breakfast operations.
7. Assisted living facilities.
8. Child care facilities.
9. Accessory uses.
10. Adult care facilities.

C. CONDITIONAL USES:

1. Nursing homes for the aged, invalid, or mentally ill or impaired.

D. PERFORMANCE STANDARDS: No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A)(9), shall be authorized. Any Allowed Modular Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit. (Ord. 4, §1, 1999; Ord. 7, §8, 2005; Ord. 4, §6, 2008)

17.04.110 MHR District.

A. INTENT: The MHR District is intended to provide a suitable environment for single family site built and factory built homes and is designed to allow a high density of single family residences and related uses.

B. USES BY RIGHT:

1. Single family homes.
2. Mobile home parks, including accessory service buildings, storage areas, recreation facilities, convenience stores, gift shops, offices and child care centers, which are owned and operated by the park owner for the use of the park and its residents.

3. Government buildings and facilities.
4. Parks and recreation facilities owned or operated by a homeowner's association.
5. Churches.
6. Public utility service facilities.
7. Assisted living facilities with no more than 8 residents
8. Bed and breakfast operations.
9. Accessory uses.

C. CONDITIONAL USES:
1. Nursing homes for the aged, invalid, ill, or mentally impaired.
2. Child care facilities.
3. Adult care facilities.

D. Mobile home parks shall comply with the requirements of Chapter 15.52 in addition to these zoning regulations. Chapter 15.52 shall control with respect to any conflict with these regulations. (Ord. 4, §1, 1999; Ord. 9, §6, 2004; Ord. 7, §9, 2005)

17.04.120 MR District.

A. INTENT: The MR District provides for a mixture of medically oriented activities, clinics, pharmacies, and hospitals along with residences.

B. USES BY RIGHT:
1. Doctors' and dentists' offices, clinics, and pharmacies.
2. Hospitals (not including animal hospitals).
3. Single family homes, duplexes and multi-family residences.
4. Government buildings and facilities.
5. Churches, including accessory child care facilities and schools.
6. Parks and recreation facilities owned or operated by a homeowners' association.
7. Public utility service facilities.
8. Floral shops.
9. Nursing homes and sanitariums for the aged, invalid, or mentally ill or impaired.
10. Bed and breakfast operations.
11. Child care facilities.
12. Assisted living facilities.
13. Accessory uses.
14. Sales and distribution of medical supplies substantially focused within Western Colorado.
15. Cemeteries.
16. Medically oriented retail or service businesses, excluding manufacturing.
17. Adult care facilities.

C. PERFORMANCE STANDARDS: No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A)(9), shall be authorized. Any Allowed Modular Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit. (Ord. 4, §1, 1999; Ord. 44, 2000; Ord. 9, §7, 2004; Ord. 7, §10, 2005; Ord. 4, §7, 2008)

17.04.130 OR District.

A. INTENT: The OR District is intended to allow for a mix of offices and residences in areas adjacent to commercial zones or in areas in transition from residential to commercial uses.

B. USES BY RIGHT:

1. Offices.
2. Single family homes.
3. Duplexes.
4. Multi-family residences.
5. Government buildings and facilities.
6. Churches.
7. Parks and recreation facilities owned or operated by a homeowners' association.
8. Public utility service facilities.
9. Child care facilities.
10. Bed and breakfast operations.
11. Assisted living facilities.
12. Accessory uses.
13. Adult care facilities.

C. CONDITIONAL USES:

1. Nursing homes for the aged, invalid, or mentally ill or impaired.

D. PERFORMANCE STANDARDS: No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A)(9), shall be authorized. Any Allowed Modular Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit. (Ord. 4, §1, 1999; Ord. 7, §11, 2005; Ord. 4, §8, 2008)

17.04.140 B-1 District.

A. INTENT: The intent of this district is to establish and preserve a central business district convenient and attractive for a wide range of retail uses and business, government and professional offices and places of amusement in a setting conducive to and safe for a high volume of pedestrian traffic.

B. USES BY RIGHT:

1. Retail stores, business and professional offices and service establishments which cater to the general shopping public.
2. Libraries and museums.
3. Government buildings and facilities.
4. Public utility service facilities.
5. Private and fraternal clubs.
6. Theaters and places of amusement.
7. Restaurants and taverns.
8. Depots.
9. Churches (off-street parking required).
10. Child care facilities (off-street parking required).
11. Hotels and motels (off-street parking required).
12. Parking lots and garages.
13. Single family homes, duplexes, dwelling units in buildings containing other uses, and multiple family residences (off-street parking required).
14. Schools (off-street parking required).
15. Retail stores, business and service establishments serving the general public but which also involve limited manufacturing of the products supplied.
16. Funeral homes (off-street parking required).
17. Parks and playgrounds.
18. Accessory uses.
19. Adult care facilities (off-street parking required).

C. CONDITIONAL USES:

1. Small manufacturing operations which meet the following criteria in addition to the criteria of Section 17.04.250:
   a. The manufacturing activities shall be totally enclosed within a building.
   b. All storage of equipment, supplies, materials and inventory shall be within an enclosed building. No exterior storage is allowed.
   c. Trucks, trailers and other vehicles shall not be parked on the public street. No more than one shipment operation may occur per day.
   d. The activity shall not result in any public or private nuisance.
   e. Off street parking is required.
2. Antennae for “personal wireless services” as defined in 97 USC 332(c)(7).

D. The following uses are not to be construed as a “use by right” or a “conditional use” in the B-1 District.

1. Farm implement sales or service establishments.
2. Mobile home sales or service establishments.
3. Feed storage or sales establishments.
4. Veterinary clinics.

5. Construction or contractors' equipment storage facilities.
6. Machine and welding shops.
7. Aboveground storage of hazardous fuels.
8. Manufacturing and industrial uses except as authorized above.
9. Storage facilities.
10. Vehicle sales and service establishments.
11. Gas stations.
12. Car washes.

E. PERFORMANCE STANDARDS:
1. No use shall be established, maintained or conducted in any B-1 District that will result in any public or private nuisance.
2. No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A)(9), shall be authorized. Any Allowed Modular Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit.
3. Dwelling units shall not be located on the ground floor within 75 feet of Main Street between Second Street and Fifth Street.
4. Antennae for "personal wireless services" shall not stand alone, but shall be incorporated into other existing structures in an unobtrusive fashion and shall be subject to the same setback requirements as buildings. (Ord. 4, §1, 1999; Ord. 7, §12, 2005; Ord. 4, §9, 2008)

17.04.150 B-2 District.

A. INTENT: The B-2 District is intended for a large variety of uses to conveniently serve customers. (It shall include all areas previously classified before November of 2011 as being within the B-4 District.)

B. USES BY RIGHT:
1. Those listed in the B-1 District as "uses by right."
2. Laundromats.
3. Bowling alleys.
4. Car washes.
5. Rental storage units with a maximum rental unit size of three hundred (300) square feet.
6. Veterinary clinics or hospitals for small animals.
7. Nursing homes, sanatoriums, and hospitals.
8. Retail building material supply businesses.
9. Gas stations and vehicle repair businesses.
10. Farm implement and vehicle sales and service establishments.
11. Wholesale distribution.

C. CONDITIONAL USES:

1. Those “conditional uses” listed for the B-1 District not listed as a use by right in (B) above, except small manufacturing specified in Subsection 17.04.140(C)(1).

2. Travel home parks.

3. Small manufacturing operations which meet the following criteria in addition to the criteria of Section 17.04.250:

a. The manufacturing activities shall be totally enclosed within a building.

b. All storage of equipment, supplies, materials and inventory shall be within an enclosed building. No exterior storage is allowed.

c. Trucks, trailers and other vehicles shall not be parked on the public street.

d. The activity shall not result in any public or private nuisance.

e. Off street parking is required.

D. The following uses are not to be construed as a “use by right” or “conditional use” in the B-2 District:

1. Bulk Feed and storage and sales establishments.

2. Veterinary clinics or hospitals for large animals.

3. Construction and contractor’s equipment storage facilities.

4. Machine and welding shops.

7. Aboveground storage facilities for hazardous fuels.

8. Manufacturing and industrial uses except as specifically allowed above.

9. Storage facilities (small rental storage units are allowed).

E. PERFORMANCE STANDARDS:

1. No use shall be established, maintained or conducted in any B-2 District that will result in any public or private nuisance.

2. No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A)(9), shall be authorized. Any Allowed Modular Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit.

3. In addition to other applicable requirements, rental storage operations must be constructed and maintained in compliance with the following performance standards:

a. Rental storage buildings must either be located a minimum of 300 feet from any state or federal highway or shall be screened by landscaping or masonry or wood fences so they are not visible from state or federal highways.

b. All driveways and parking spaces shall be paved for a distance of 40 feet from the curb, with a minimum paving width matching the width of the curb cut concrete apron. This requirement may be reduced by 25% if the driveway slopes down towards the property from the City street.

c. The site shall be graded to provide adequate drainage.

d. The site shall be either hard surfaced or graveled with adequate amounts of rock. If a gravel surface is used, it must be maintained from time to time in a manner which prevents the movement of mud from the site onto the City streets.

e. (1) Storage buildings shall be designed and built with a minimum of one foot (1') of change in the planes of the walls per each hundred feet (100') of building length, and with a minimum of twenty percent (20%) of the wall and door areas of a different color than the rest of the building.

(2) The maximum height for storage buildings shall be 17 feet.

(3) Individual storage units must be no larger than 300 square feet in floor area.

f. The site must have a minimum five foot wide strip abutting adjacent streets landscaped in accordance with a landscape plan approved by the City, which shall include substantial vegetation. The property owner shall be responsible for maintenance of the landscape strip.

g. The operation must be maintained in good safe and sanitary condition in compliance with these standards and shall not create any nuisance by dust, light or other factors to other property in the area.

h. The mini-storage buildings must be located northerly of First Street extended.

4. Antennae for "personal wireless services" shall be incorporated into other existing structures in an unobtrusive fashion and shall be subject to the same setback requirements as buildings. (Ord. 4, §1, 1999; Ord. 3, §11, 2008; Ord. 4, §10, 2008)

17.04.160 B-3 District.

A. INTENT: The B-3 District is intended for a large variety of uses that require large storage areas to conveniently serve customers.

B. USES BY RIGHT:

1. Uses listed as "uses by right" in the B-1 and B-2 Districts.

2. Electronic and telecommunications antennas, receivers and transmitters.

3. Mobile home sales or service establishments.

4. Machine and welding shops.
5. Large equipment rental businesses.
6. Feed storage and sales establishments.
7. Construction and contractors' office and equipment storage facilities.
8. Aboveground fuel storage facilities for hazardous fuels.
9. Warehouses and storage facilities.
10. Veterinary clinics or hospitals for large animals.

C. CONDITIONAL USES:

1. Uses listed as conditional uses in the B-1 and B-2 Districts not listed as a specified Use by Right in (B) above.
2. Manufacturing not allowed as a Use by Right in (B)(1) above.

D. PERFORMANCE STANDARDS:

1. No use shall be established, maintained, or conducted in any B-3 District that will result in any public or private nuisance.
2. No Factory Built Housing, except for Allowed Modular Housing as defined in Section 17.04.020(A)(9), shall be authorized. Any Allowed Modular Unit(s) must be permanently attached to an engineered foundation and properly connected, completed and inspected on site in accord with the reasonably applicable provisions of Chapter 15.04 of the Delta Municipal Code as outlined in the pertinent building permit.
3. Rental storage operations must meet the criteria set out in Subsection 17.04.150(E)(3). (Ord. 4, §1, 1999; Ord. 4, §11, 2008; Ord. 4, §1, §3, 2011)

17.04.170 Repealed (Ord. 4, §2, 2011)

17.04.190 I District.

A. INTENT: The purpose of the I-1 District is to accommodate manufacturing, commercial, and most industrial uses which need adequate space, light, and air, and whose operations are quiet and clean provided that they do not create a nuisance to other property by reasons of dust, odor, noise, light, smoke, vibrations or other adverse effects which cannot be effectively confined on the premises. This promotes the creations and maintenance of an environment which will serve the mutual interests of the community as a whole, of any adjacent residential areas and of the occupants of the industrial area.

B. USES BY RIGHT:

1. Uses which meet the intent of Subsection (A) and the performance standards of Subsection (C) of this Section, not including residential uses, are uses by right. Typical examples of such manufacturing and nonmanufacturing uses include warehouses, wholesalers, and manufacturing contained within buildings and accessory retail sales.

2. Industrial uses, including those with accessory retail sales operations such as:
   a. Manufacturing of any product.
   b. Wholesaling of any product.
   c. Warehousing and storage.
   d. Bulk storage.
   e. Processing of any manufactured product.
   f. General service and repair of automobiles, trucks, farm implements and construction equipment.
   g. Parking lots.
   h. Fabrication of any product.
   i. Agricultural products processing.
   j. Offices.
   k. Freight hauling facilities.
   l. Sawmills or planing mills.
   m. Aboveground fuel storage facilities for hazardous fuels.
3. Parks and open spaces.
4. Government buildings and facilities.
5. Public utility service facilities.
6. Electronic and telecommunications antennas, receivers and transmitters.
7. Accessory uses.
8. Sexually oriented business complying with the provisions of Chapter 8.32.

C. PERFORMANCE STANDARDS:

1. No use shall be established, maintained or conducted in any I District that will result in any public or private nuisance.
2. No industrial structure shall be constructed within one hundred feet (100') of any existing Residential District, unless effectively buffered by landscaping, berms, fencing, or screening.
3. No use shall be established in the I District which results in an unreasonable hazard to the community or creates a public or private nuisance.
4. No noise, dirt, smoke, or odor shall be observable off of the premises.
5. Automobile wrecking and salvage yards and junk yards shall have screening.
6. Additionally, all outdoor storage may require screening to prevent industrial blight.

D. CONDITIONAL USES:

1. Any commercial or industrial use other than the uses by right which complies with the performance standards of Subsection C and is consistent with the intent of Subsection A above.
2. Automobile wrecking and savage yards.
3. Junk yards.
4. Animal sales yards.
5. Mineral extraction and processing.

6. Trash disposal and recycling facilities.
7. Quarries and gravel operations. (Ord. 4, §1, 1999; Ord. 8, §4, 2004; Ord. 4, §4, 2011)

17.04.200 Repealed (Ord. 4, §5, 2011)

17.04.210 I-R District.

A. INTENT: It is the intent of this district to create a transition area between industrial districts and residential districts which will allow and encourage use and expansion of residential uses, particularly those providing low cost housing stock, as a use by right, but also allow and encourage the expansion of industrial uses from the adjacent industrial districts.

B. USES BY RIGHT:

1. Those uses that are uses by right in the I zoning District, excluding however any and all sexually oriented businesses defined and regulated under Chapter 8.32 of this Code.

2. Industrial uses, including those with accessory retail sales operations such as:

a. Manufacturing of any product.
b. Wholesaling of any product.
c. Warehousing and storage.
d. Bulk storage.
e. Processing of any manufactured product.
f. General service and repair of automobiles, trucks, farm implements and construction equipment.
g. Parking lots.
h. Fabrication of any product.
i. Agricultural products processing.
j. Offices.
k. Freight hauling facilities.
l. Sawmills or planing mills.
m. Aboveground fuel storage facilities for hazardous fuels.

3. Single family homes and duplexes.

C. CONDITIONAL USES:

1. Any industrial or commercial use, other than the uses by right listed above, which comply with the performance standards.
2. Automobile wrecking and salvage yards.
3. Junk yards.
4. Animal sales yards.
5. Mineral extraction and processing.
6. Trash disposal and recycling facilities.
7. Quarries and gravel operations.

D. PERFORMANCE STANDARDS:

1. No use shall be established in the I-R District which results in an unreasonable hazard to the community or creates a public or private nuisance.

2. No industrial structure shall be constructed within 100' of any existing Residential District unless effectively buffered by landscaping, berms, fencing, or other screening.

3. Automobile wrecking and salvage yards and junk yards shall have screening.

4. Both site built and factory built housing shall be constructed in compliance with applicable provisions of Chapters 15.04 or 15.05 of the Delta Municipal Code, shall be permanently attached to a permanent foundation, shall have brick, wood, masonry, stucco or cosmetically equivalent exterior surfaces, shall have a minimum width and length of not less that 20' each, and a minimum eave overhang of 12 inches. (Ord. 4, §1, 1999; Ord. 7, §2, 2009, Ord. 4, §7, 2011)

17.04.220 Tabulated regulations.

A. The standards set forth in the table below are the minimum standards to be used in each designated use district.

B. 1. No part of any building, except for the outer eighteen inches (18") of the eaves, may be located any closer to a property line than the setback specified in the table appearing on the following page, subject to the following exceptions:

a. Travel homes and trailers may be parked anywhere upon property as long as such items are kept properly licensed, and maintained in a condition of neat appearance and good function for their intended purposes.

b. Awnings supported by only the building to which they are attached may extend into the rear setback of the related property in the B-1 zoning district to a point no closer than eighteen inches (18") from the property line.

c. Any storage structure (shed) accessory to a single family residence which is exempted from building permit requirements may be located within setback areas of property which are not adjacent to a street, provided as follows:

i. Any such structure must be located entirely behind the front setback line of the pertinent lot or parcel of property.

ii. Any such structure must be set back a sufficient distance within the property boundary

lines so that rain or snow falling upon the structure's roof will not be diverted onto the property of any neighboring owner.

A lot or parcel of property abutted by two or more parallel or intersecting streets may contain a storage structure located within the setback area abutting any street behind the pertinent single family residence, but not within any corner setback. It is further provided that no such structure shall be located at any place where it will constitute an unsafe impediment to the visibility of vehicle operators using streets abutting the pertinent lot or parcel, all as determined under applicable sight line provisions of the City of Delta's Standards and Specifications for Design and Construction of Public Improvements.

d. Uncovered handicap ramps, with or without railings, but not including porches or decks.

e. Landings and stairs which encroach no more than four feet into the setbacks, not including porches or decks.

2. The rear setback shall be measured from the property line abutting an alley where one exists.

3. The front setback shall normally be measured from a property line abutting an adjacent street accessing the lot.

4. The corner setback shall be measured and applied from all other property lines abutting streets.

5. The property line abutting streets shall be assumed to be no closer that 25 feet from the center line of a local street, or one half the right-of-way width specified for collector or arterial streets as shown on the City's Major Street Plan and defined in City subdivision regulations, for purposes of measuring setbacks. (Ord. 4, §1, 1999; Ord. 13, §1, 1999; Ord. 31, §3, 2000; Ord. 9, §10 & 19, 2004, Ord. 4. §6, 2011; Ord. 9, §1, 2012)

Dist.	Use	Min. Lot Area Sq. Ft.	Min. Lot Area Per Unit	Front Setback	Side Setback	Rear Setback	Maximum Height a	Maximum Height b	Corner Setback
A-1	All	1 acre	1/2 acre	30	15	20	35	45	N/A
R-R	All	1/2 acre	1/4 acre	25	10	20	35	45	N/A
R-1 and R-1A	All	7,500	6,000	25	5	10	35	45	20
R-2	SF All Others	6,000 6,000	6,000 4,500	25 25	5 5	10 10	35 35	45 45	20 20
R-3	SF DUP All Others	6,000 6,000 6,000	6,000 3,500 3,000	15 15 15	5 5 10	10 10 10	40 40 40	50 50 50	15 15 15
R-4	SF DUP All Others	6,000 6,000 6,000	6,000 3,000 1,500	15 15 15	5 5 10	10 10 10	40 40 40	50 50 50	15 15 15
MHR	All	4,500	4,500	15	5	15	35	45	15
MR	SF DUP All Others	6,000 6,000 6,000	6,000 3,000 1,500	20 20 20	5 5 10	15 15 15	40 40 40	60 60 60	15 15 15
OR	SF DUP All Others	6,000 6,000 6,000	6,000 3,500 3,000	20 20 20	5 5 10	15 15 15	40 40 40	60 60 60	15 15 15
B-1	Residential All Others	Same as R-4 N/A	Same as R-4 N/A	N/A N/A	N/A N/A	10 10	60 60	60 60	N/A
B-2	Residential All Others	Same as R-3 6,000	Same as R-3 N/A	15 15	5 5	20 20	60 60	60 60	10 10
B-3	Residential All Others	Same as R-3 10,000	Same as R-3 N/A	25 25	5 5	20 20	60 60	60 60	20 20
I	All	15,000	N/A	25*	5*	10*	N/A	60	25*
I-R	Residential All Others	Same as R-3 15,000	Same as R-3 N/A	15 25*	5 5*	10 10*	40 40	60 60	15 25*

(a) Dwelling (b) Other

*Minimum distance from existing residential zone - 100 feet unless buffered
**Same as most restrictive adjacent residential zone or R-3, whichever is more restrictive

17.04.230 Off-street parking requirements.

A. The purpose of off-street parking requirements is to promote the convenient and safe movement of traffic on City streets.

B. In those instances where there are clearly identified multiple uses within a structure or multiple structures, the minimum standards shall apply to each use or structure, resulting in a total parking requirement when summed.

C. Specific requirements are as follows:

1. Single, two, three and four family dwellings - Two spaces per dwelling unit.

2. Multi-family dwellings with five or more units - One and one-half spaces per dwelling unit plus one additional space per every five spaces.

3. Theaters - One space per each four seats.

4. Bowling alleys - Four spaces per lane.

5. Child care facilities - One and one-half spaces per employee.

6. Adult care facilities - One and one-half spaces per employee.

7. Churches - One space per each three persons of capacity of the main sanctuary.

8. Assisted living facilities - One-half space per apartment unit plus one for each three employees.

9. Hospitals - One space for each three beds plus one for each three employees.

10. Funeral homes and mortuaries - One space for each six seats in the main chapel.

11. Nursing homes - One space for each three beds.

12. Bed and breakfast operations - Two spaces per dwelling unit plus one space per guest room.

13. Hotels and motels - One space per guest room.

14. Bus stations - One space per four hundred square feet of floor area with a minimum of three spaces.

15. Offices, banks, medical-dental clinics, and government offices - One space per three hundred square feet of gross floor area.

16. a. Restaurants - One space per each three seats of seating capacity.

b. Bars and nightclubs - One space per each two persons designed capacity.

17. Drive-in restaurants - One space per fifty square feet of floor area.

18. Beauty shops and barber shops - Two spaces for each chair.

19. Retail sales/service

a. High volume retail sales (consists of supermarkets, clothing and department stores, shopping complexes, hardware, building supplies, and similar uses) – One space per each two hundred square feet sales area.

b. Low volume retail sales (consists of furniture/appliance sales, repair shops, nurseries, greenhouses and similar uses) – One space per each two hundred fifty square feet sales area (includes employee parking).

20. Vehicles sales (such as automobile dealerships, used car sales, recreational vehicle sales, etc.) – An area equal to ten percent of the total display area.

21. Car care establishments such as garages, oil and lube stops, tire sales and mounting – Five spaces per 1,000 feet of gross floor area.

22. Wholesale businesses – 1.1 spaces per employee.

23. Warehousing – One space per employee.

24. Industrial/manufacturing – 1.1 spaces per employee.

25. Conditional use – To be determined in conjunction with the conditional use review procedure.

26. For all uses not specified above, each premise shall provide adequate space to accommodate the anticipated need for parking generated by the use, including at least one space per employee.

D. For all uses except single-family and two-family dwelling units, sufficient off-street space shall be provided to allow an automobile to enter, maneuver and exit without backing onto any public right-of-way, other than an alley.

E. Joint parking facilities

1. Off-street parking may be supplied by other off-street parking facilities for other uses if those other uses are not operated during the same hours, subject to the conditions of these specifications.

2. Off-street parking designated for joint use shall not be more than two hundred feet from the property or use it is intended to serve, except that employee parking may be farther if it is actually used by the employees.

3. Sufficient evidence shall be presented to demonstrate that there will be no substantial conflict in a joint parking arrangement.

4. Shared parking lots shall be allowed in all zoning districts where shared parking can be provided among a mix of land uses located in the same structure, or within the same property or use, or in adjoining structures, or on adjacent

property not more than two hundred feet (200') from the property it is intended to serve; provided, however, that peak parking usage either reasonably projected or actually resulting from such multiple land uses and/or activities will not exceed the number of parking spaces developed for the shared lot, and provided further that there be a recorded covenant or plat restriction to such effect on forms approved by the City as support for enforcement of compliance.

F. For each parking area which contains either twenty or more spaces or more than one aisle shall incorporate landscaped islands dispersed throughout the parking area with such islands to occupy a minimum of five percent (5%) of the overall parking area and to be landscaped in accordance with City standards and specifications. A plan shall be submitted at the time of the building permit application and shall be subject to City approval.

G. When twenty or more parking spaces are required under provisions of Section 17.04.230.C, the parking and maneuvering areas shall be paved in accordance with City specifications, unless exempted below:

1. When a street or other public access to a required parking lot/space is not paved at the time of construction of such lot/space, it may be temporarily surfaced with gravel; provided, however, that the lot/space must be subsequently paved in accord with City Standards and Specifications within no more than twelve months following the time that any part of adjoining public access has been paved.

2. When public access to a required parking lot/space is paved, but the parking lot or space is not required to be paved, a paved or concrete apron must nevertheless be installed according to City Standards and Specifications at all access points.

3. In the I, IR and B-3 zoning districts, parking and maneuvering areas for truck loading, employee parking and outside manufacturing may be surfaced with gravel. If a business includes retail sales, the customer parking area must always be paved according to City Standards and Specifications.

In all cases in which paving of a parking lot or space is not required under this article or under other development regulations of the City, the owner(s) of the pertinent property shall, at all times, be liable for proper maintenance of all

graveled parking and maneuvering areas including, but not limited to, keeping accumulated gravel cleared from paved areas and/or concrete aprons, repairing potholes, controlling dust, and maintaining adequate gravel coverage to enable maneuvering of vehicles in all weather conditions. In the event that such maintenance is not properly performed, the City may, at any time after giving ten (10) days prior written notice of deficiencies to such owner(s), cause the maintenance work to be done, assess the costs thereof to the property owner(s), and certify the costs as delinquent charges to the Delta County Treasurer to be collected as, and along with, ordinary real property taxes. Alternatively, the City may record a lien for the costs incurred on the pertinent property of the delinquent owner(s), which lien may be foreclosed in any lawful manner, or may pursue any other legal and/or equitable remedy available for collection of costs incurred by the City in the course of performing or hiring the required parking area maintenance work.

H. Required off-street parking shall be contiguous to the use except as provided in Subsection (E),and except for residential users in the B-1 District which may utilize parking spaces owned or leased by the owner of the residential use if located within 450 feet of the residential use, or when a recorded covenant or plat restriction on forms approved by the City allows the City to enforce maintenance of the parking.

I. Parking areas and required landscaping shall be designed pursuant to City Design Standards and Specifications.

J. In the "B-1" District, or premises contiguous to the “B-1" District or directly across a street or alley from the “B-1" District, payment may be made to the City in lieu of providing required off-street parking spaces in the amount of $2,700 per space. Such amount shall be kept and utilized by the City to provide public parking in said district.

K. Off-street parking is not required for uses conducted within the "B-1" District except for residential and other specified uses which shall provide off-street parking at all locations. (Ord. 4, §1, 1999; Ord. 31, §2, 2000; Ord. 33, §1, 2002; Ord. 9, §18, 2004; Ord. 7, §14, 2005; Ord. 3, §12, 2008; Ord. 8, §2, §3, 2012)

17.04.240 Supplemental regulations.

A. Home occupations: Home occupations may be conducted accessory to a dwelling unit in any district as an accessory use only if the following criteria are met:

1. City and State sales tax licenses must be obtained if sales taxable by the City or State sales taxes are to be made.

2. The occupational activity and storage of any items used or sold in the occupation must be entirely within the dwelling unit or accessory garage. Neither the occupation nor any storage may be conducted within or utilize any detached buildings or other place upon the premises other than the residence or accessory garage.

3. Only the residents of the dwelling unit may be engaged in the home occupation.

4. No unreasonable noise, glare, smoke, dust, vibration or odor shall be observable off the premises.

5. The home occupation activity shall not utilize or occupy more than twenty percent (20%) of the floor area of the dwelling unit and accessory garage combined.

6. No exterior sign larger than 10 square feet in size shall be allowed in the A-1, R-R, R-1, R-1A, or MHR Districts. Signs in other districts shall comply with applicable sign regulations.

7. Off-street parking shall be required for both the residential and the commercial activity in accordance with the requirements of Section 17.04.230.

B. The following fence, hedge, and wall regulations shall apply in addition to those requirements set forth in Delta Municipal Code Section 15.04.060:

1. No fence or free-standing wall shall exceed a height of six (6) feet in any residential zoning district of the City, including the present A-1, R-R, R-1, R-1A, R-2, R-3, R-4, MHR, MR and OR zones. No fence or free standing wall shall exceed a height of ten (10) feet in any other zoning district of the City including the present B-1, B-2, B-3, B-4, I-1, I-2 and I-R zones.

2. Barbed wire may be used in fences that are necessary and appurtenant to lawful agricultural use within the City. Up to three strands of barbed wire may be installed at the tops of fences allowed in the business and industrial districts within the City, provided that such wire is located no less than six (6) feet above the ground level along the length of each pertinent fence.

3. Electrically charged fences shall be allowed within the City only if another fence or structure located outside of the electrified fence makes the latter inaccessible to all persons except the fence owners and their authorized lessees, employees, licensees and agents.

C. Temporary use permits:

1. The City Council may issue a permit authorizing a temporary use of premises in a district for a use which is otherwise not allowed in such district for a period of up to six months in accordance with this subsection.

2. The temporary use permit may be issued by the City Council only after it determines that unusual circumstances exist, not created by the applicant, such as damage or

destruction of applicant's permanent premises, which results in significant hardship and that the temporary use will not unreasonably interfere with the use of other property or result in any permanent adverse effects to other property or create a safety or health hazard.

3. The City Council shall hold such hearings concerning the application and shall provide such notice thereof as the circumstances merit in its opinion. The permit may be granted subject to conditions appropriate to insure compliance with the criteria of this Section.

D. Child care facilities: Child care facilities may be conducted within a dwelling unit in any zoning district as an accessory use only if they meet the provisions of Paragraphs A or B of Section 7.707.2 of the "Rules Regulating Family Childcare Homes" set forth in the Code of Colorado Regulations (12 CCR 2509).

E. Telecommunication antenna and tower regulations:

1. Telecommunication towers and antennas shall be located, and comply with the following provisions:

a. Noncommercial television and telecommunications receivers, and amateur radio antennae which qualify as an accessory use to the main use on the premises, may be located on such premises.

b. Antennae for "personal wireless services" as defined 97 USC 332(c)(2) shall be limited to the B-1 and B-2 Districts as a conditional use, or the B-3 and the Industrial Districts as a use by right, or upon City-owned property in other zoning districts pursuant to leases or permits with the City, with terms and conditions adequate to insure safety and reasonable compatibility with the neighborhood in which they are located.

c. Commercial radio, television and other telecommunications transmitters and receivers shall be restricted to commercial and industrial zoning districts which specifically allow them as a use by right or a conditional use.

d. Additional receivers or transmitters may be in stalled on existing telecommunication towers regardless of the zoning district.

2. All telecommunication antennas and towers shall be limited to the maximum height set out in Section 17.04.220, with the following exceptions:

a. Telecommunication antennas, receivers and transmitters may be located on existing towers and structures, or on a one time extension of no more than 20 feet to a tower or structure, in existence on December 7, 1999.

b. A variance to the height limitations otherwise applicable may be obtained for an amateur radio antenna for noncommercial use pursuant to the review procedure of Section 17.04.290, if the City Council determines that the following criteria are met:

(1) A higher tower is necessary to be reasonably adequate for the domestic communications purposes;

(2) No reasonable alternative exists; and

(3) No adverse impacts will be created with respect to other property in the area.

c. A variance to the height limitations otherwise applicable may be obtained for personal wireless service antennae if the City Council determines pursuant to the review procedure of Section 17.04.290 that the following criteria are met:

(1) Space is not available at a commercially reasonable price on an existing tower or structure located in a technically feasible location, and no other location is available which will provide reasonably adequate service in compliance with the height limitations set out above; and

(2) No adverse effect on property values in the area will be caused, and no safety hazard will be created;

(3) The design and color of the tower and appurtenances shall be reasonably compatible with the site and surrounding area.

3. A final decision to deny a variance shall be in writing and supported by a substantial written record.

4. All towers and structures shall be subject to the building setback requirements of Section 17.04.220, the requirements of City building codes and other ordinances and regulations apply in accordance with their terms.

5. The variance criteria specified in paragraphs 2(b) and (c) above shall be in lieu of the variance criteria of Section 17.04.260. Compliance with this Section may be in lieu of obtaining approval of a change in a nonconforming use pursuant to Section 17.04.280.

F. Adult care facilities: Adult care facilities may be conducted within a dwelling unit in any District as an accessory use only if no more than six adults are present on the premises at any time, in addition to the adults otherwise residing in the dwelling unit. (Ord. 4, §1, 1999; Ord. 26, §1, 1999; Ord. 9, §21, 2004; Ord. 7, §15, 2005; Ord. 38, §2 & §4, 2006)

17.04.250 Criteria for approval of a conditional use or a change in a non-conforming use.

A. No conditional use or change in a non-conforming use will be allowed unless the Planning Commission determines the following criteria are substantially met with respect to the type of use and its dimensional features:

1. The use will not be adverse to the public health, safety or welfare.

2. The use is not inconsistent with the City's Master Plan.

3. Streets, pedestrian facilities, water, sewer and other public improvements in the area are adequate.

4. The use is compatible with existing uses in the area and other allowed uses in the district and the type, bulk, height and location of any buildings or structures is compatible with other buildings, structures and the character of the area.

5. The use will not have an adverse effect upon other property values.

6. Adequate off-street parking will be provided for the use.

7. The location of curb-cuts and access to the premises will not create traffic hazards.

8. The use will not generate light, noise, odor, vibration, or other effects which would unreasonably interfere with the reasonable enjoyment of other property.

9. Landscaping of the grounds and architecture of any buildings will be reasonably compatible with that existing in the neighborhood.

10. Any other criteria specified by other City ordinances or regulations are met.

B. The burden shall be upon the applicant to prove that these requirements are met.

C. The Planning Commission may impose conditions as necessary to insure that the above criteria are met.

D. A use approved as a “use subject to review” under prior ordinances shall be treated as a previously approved “conditional use” for purposes of this Chapter. (Ord. 4, §1, 1999)

17.04.260 Criteria for approval of a variance.

A. The Planning Commission may approve a variance from the provisions of this Chapter other than the uses specified for any District or restrictions on the location of factory built housing only if it determines following review pursuant to

Section 17.04.290 that the following criteria are substantially met:

1. The variance will not adversely affect the public health, safety and welfare.

2. Unusual physical circumstances exist, such as unusual lot size or shape, topography, or other physical conditions peculiar to the affected property which make it unfeasible to develop or use the property in conformity with the provisions of this Chapter in question.

3. The unusual circumstances have not been created as a result of the action or inaction of the applicants, other parties in interest with the applicant, or their predecessors in interest.

4. The variance requested is the minimum variance that will afford relief and allow for reasonable use of the property.

5. The variance will not result in development incompatible with other property or buildings in the area, and will not affect or impair the value or use or development of other property.

B. The Planning Commission may impose conditions of approval as necessary to insure that the above criteria are met including limitations on the effective term of the variance.

C. The City Manager or designee may approve *di minimus* variances from the dimensional requirements of Section 17.04.220, fence height requirements, 17.04.240(B)(1), sign height and sign area requirements in Section 17.68 which meet the following criteria:

1. The variance is unnoticeable off the premises or would take a survey or measurements to detect;

2. The variance is not more than 5% of the applicable measurement; and

3. No practical alternative exists.

D. The burden shall be on the applicant to show that the applicable criteria are met. (Ord. 4, §1, 1999)

17.04.270 Amendments and additions to the Zoning Regulations and Map.

A. Rezoning:

1. Amendments to the Zoning Map involving any change in the boundaries of an existing district or changing the district designation of an area shall be allowed only upon findings as follows:

a. The amendment is not adverse to the public health, safety and welfare; and

b. i. The amendment is in substantial conformity with the Master Plan; or

ii. The existing zoning is erroneous; or

iii. Conditions in the area affected or adjacent areas have change materially since the area was last zoned.

2. Rezoning may be requested or initiated by the City Manager, the Planning Commission, or the owner of any legal or equitable interest in the property or the owner's representative. The rezoning shall be reviewed for compliance with the criteria of this Subsection in accordance with the review procedure of Section 17.04.290. The area considered for rezoning may be enlarged by the Planning Commission on its own motion over the area requested in the application with proper notice. The applicant shall provide an adequate legal description of the proposed zoning.

B. Zoning of additions:

1. The Planning Commission shall recommend to the Council a use designation for all property annexed to the City not previously subject to City zoning, and shall follow the review procedure set out in Section 17.04.290 in arriving at its recommendation. Proceedings concerning the zoning of property to be annexed may be commenced at any time prior to the effective date of the annexation ordinance or thereafter.

2. The zoning designation for newly annexed property shall not adversely affect the public health, safety and welfare.

C. Legislative zoning: Comprehensive review and re-enactment of all or a significant portion of the Zoning Map shall be a legislative action, and shall not be subject to the review procedure of Section 17.04.290 or any criteria set out in this Section.

D. No amendment, addition to or re-enactment of the Zoning Map shall become effective until enacted by ordinance approved by at least three Councilmembers.

E. Amendments to these regulations shall be made by an ordinance. (Ord. 4, §1, 1999)

17.04.280 Nonconforming uses.

A. Any use, building, structure or premises which was lawfully existing and maintained in accordance with the previously applicable County or City regulations and ordinances

but which does not conform or comply with all of the regulations provided in this Chapter may continue to be maintained and used as a lawful nonconforming use only in compliance with the provisions and limitations imposed by this Section. Uses, structures, buildings or premises which were unlawful or illegal and not in compliance with previously applicable regulations shall remain unlawful, illegal and subject to abatement or other enforcement action.

B. If a use, building, structure or premises is lawfully nonconforming in that it is not a use by right or an approved conditional use which has been approved pursuant to the review procedures of Sections 17.04.250 and 17.04.290, the following shall apply:

1. If the building or structure involved in the use is destroyed or damaged, the lawful nonconforming uses of the structure may be re-established if reconstruction is commenced within six (6) months, completed with due diligence and occupied after completion thereafter. This shall not allow replacement with a nonconforming mobile home or factory built housing.

2. If the nonconforming use is abandoned or discontinued for a period of six (6) months, then the premises may only be used in compliance with the use regulations for the district within which it is located.

3. The use may be continued only substantially as it existed at the time it became lawfully nonconforming and no material change in the type of use shall be allowed, unless the Planning Commission determines, following the review procedure provided in Section 17.04.290, that the criteria set out in Section 17.04.250 will be met, and that the new use is a more restrictive use than the existing nonconforming use. Any change in use allowed pursuant to this provision shall not affect the future status of the use as a nonconforming use for all purposes of this Section.

4. The extent or area of the premises utilized for or by the nonconforming use, building or structure may not be materially extended or enlarged, or substantially structurally altered, unless the Planning Commission determines, following the review procedure of Section 17.04.290, that the criteria set out in Section 17.04.250 will be met.

5. Notwithstanding the foregoing paragraphs (1) through (4), if a lawfully existing factory-built or site-built residence located in the I-1 or I-2 District is determined by the City to be unsafe, pursuant to City Building Codes or Regulations, or substantially substandard with respect to current provisions of the Building, Plumbing, Mechanical, Fire, and Electrical Codes, it may, if removed from the premises, be

replaced by a site-built or factory-built house which is permanently attached to a permanent foundation which has brick, wood, masonry, stucco or cosmetically equivalent exterior surfaces, and which has a minimum length and width of 20 feet each and a minimum eave overhang of 12 inches.

C. If the use, building, structure or premises is in compliance with the use regulations for the district within which it is located and is nonconforming only with respect to other requirements of this Chapter, such as dimensional requirements, parking requirements, or the regulations governing fences, hedges, walls, canopies, or standards or prohibitions for factory built housing, the following will apply:

1. If the nonconformity of the building, use, or structure is abandoned, removed or corrected, such nonconformity may not be re-established.

2. If the building or structure is damaged so that the cost of replacing or restoring it is greater than fifty percent (50%) of its fair market value after replacement, the building or structure may be repaired or replaced only in compliance with this Chapter.

3. If the building or structure is damaged in such a way as to remove the nonconformity, the nonconforming feature may not be re-established by any repair or reconstruction, unless it is not feasible to repair the building or structure without re-establishing the nonconforming feature.

4. No alteration may be made to the use, building, or structure which would increase the amount or degree of the nonconforming feature.

5. If the lot size is lawfully nonconforming in the A-1, RR, R-1, or R-1A zones, a single family residence may be located upon the lot without a variance to lot area so long as the minimum lot area per unit is met.

6. Homes within a lawful nonconforming mobile home park may be replaced by homes which meet requirements for mobile homes located in the MHR District, without regard to performance standards for siding, permanent foundations, length, width, or eaves which may be otherwise applicable in the zone in question.

D. This Section shall not apply to signs. Nonconforming signs shall be governed by the provisions of Chapter 17.68. (Ord. 4, §1, 1999; Ord. 9, §14 & 15, 2004)

17.04.290 Review procedure.

A. All requests for approval of a conditional use, variance, a change in a non-conforming use, or changes to the Zoning Map (rezoning) or other action which is required to be

reviewed pursuant to this Section by these regulations or other City ordinances, shall be reviewed by the Planning Commission.

B. The applicant requesting approval of a conditional use, variance, change in a non-conforming use, rezoning or other action shall submit an application upon forms supplied by the City accompanied by any other required information, including a survey when necessary for consideration of the application. A single application may contain a request for more than one action. Application fees shall be set by the City Council as deemed appropriate. No formal application need be submitted or fee paid for an amendment to the Zoning Map initiated by the City Manager, City Council or Planning Commission.

C. A hearing shall be set before the Planning Commission not sooner than fourteen days nor more than fifty days after receipt by the City of a properly completed application form and all required fees and other required information.

D. Notice of the hearing shall be given as follows:

1. The applicant shall be advised of the date set for the hearing and shall be responsible to post a sign or signs supplied by the City upon the property affected, easily legible from abutting streets, which briefly describes the requested action and the time and location of the hearing. Such sign shall be maintained continuously for at least seven (7) days before the hearing and until final action is taken by the Planning Commission.

2. The applicant shall also cause a notice to be published in a legal newspaper at least seven (7) days prior to the hearing, which describes the action or actions requested and the property affected. The property shall be described by street address, or relationship to a street, other property with an address, or other landmarks, and not solely by a legal description.

3. The applicant shall either hand deliver or deposit in the U.S. Mail at least seven (7) days prior to the hearing a copy of the above notice addressed to the owner of record of any property inside the Delta City limits located within one hundred feet plus the width of any intervening public right-of-way of the property affected.

E. At the hearing scheduled, the applicant and other interested parties may appear and present such evidence or testimony as they may desire. Anyone presenting evidence or testimony shall be subject to cross-examination by other interested parties, although the Planning Commission may limit

testimony, evidence, and cross-examination which is merely cumulative. The Planning Commission shall not be required to follow any set procedure during the hearing, nor to strictly follow the rules of evidence as applied by the courts. The chairman of the Planning Commission shall make all rulings on admissibility of testimony or evidence. The hearing shall be tape recorded or otherwise recorded. The applicant or other interested party may, if he desires, have the hearing recorded by a court reporter at his expense. The hearing may be continued from time to time as necessary. The City Manager or designees may appear as a party at the hearing. The burden is upon the applicant in all cases to establish that all applicable criteria for any action are met, including proper notice.

F. The Planning Commission shall announce its decision within thirty-two (32) days of the completion of the hearing. It shall not be necessary for the Planning Commission to provide written findings or conclusions, except upon request of the applicant or other party appearing or participating in the hearing.

G. The Planning Commission may approve the requested action only upon finding that all applicable criteria and requirements of these regulations or other City ordinances have been met. If it determines that such criteria have not been met, the application shall be denied. The application may be granted upon conditions or limitations which the Planning Commission determines are necessary in order to insure that the applicable criteria are met. Such conditions or limitations shall be provided to the applicant and interested parties in writing as part of the decision.

H. 1. The Planning Commission's decision with respect to requests for changes to the Zoning Map shall be submitted to the City Council as a recommendation. The Council may without further review implement such recommended change by adoption of a rezoning ordinance or take no action if no change is recommended, unless an appeal is filed as set out below, or it may decide in its discretion to hear the matter *de novo* as set out in Subsection (3) below.

2. The Planning Commission's decision with respect to other applications shall be final unless an appeal is filed as set out below.

3. An appeal of any decision of the Planning Commission may be filed with the City Clerk within 5 days of the date of its decision by the City Manager, the applicant or any interested person appearing at the hearing. The Council shall

thereafter decide the matter *de novo* by holding a new hearing substantially in conformity with the procedures of this section, or by review of the tape-recording or transcript and record of the hearing before the Planning Commission, as Council determines in its discretion.

I. Upon the filing of an appeal or request for review in the courts, the City shall cause a transcript of the tape recording of the hearing to be made and certified to the court, and the party filing such appeal or such review shall pay the City the reasonable cost incurred in producing such transcript, unless such party has a transcript produced by a court reporter at such party's expense. (Ord. 4, §1, 1999)

17.04.300 Enforcement and administration.

A. The City Manager shall be responsible for the interpretation, administration and enforcement of the provisions of the Chapter, as amended, the Official Zoning Map, as amended, and of any decisions entered by the Planning Commission or the City Council pursuant to the Chapter.

B. No building permit, occupancy permit, or other permit or license shall be issued, nor shall any action be taken or allowed by the City which is not in compliance with the provisions of these zoning regulations, and any decision issued by the Planning Commission or City Council pursuant to this Chapter.

C. Whenever convenient to make an inspection to enforce any of the provisions of these zoning regulations, or any provision of a decision entered by the Planning Commission or the City Council pursuant to this Chapter, or whenever there is reasonable cause to believe that a violation of any provision of these zoning regulations, or any decision issued by the Planning Commission or City Council pursuant to this Chapter, exists, the City Manager or an authorized representative shall have the right to enter upon such building or premises at all reasonable times for purposes of inspection or to perform any other duty imposed by this Chapter. Prior to entry they shall identify themselves and request permission to enter from the occupant or person in charge of the premises if they can be found by reasonable efforts. If entry is refused, the City Manager or an authorized representative shall have recourse to any remedy provided by law to secure entry.

D. The City may maintain an action in a court of competent jurisdiction to enjoin any violation of these zoning

regulations or of any decision entered by the Planning Commission or City Council pursuant to this Chapter.

E. It shall be unlawful to violate any of the provisions of these zoning regulations, or the terms of any decision entered by the City Council or Planning Commission pursuant to this Chapter. Any person convicted of such a violation may be punished by a fine of up to $1,000, or a jail sentence of up to one year, or by both such fine and imprisonment; provided, however, that no person under the age of eighteen (18) years shall be subject to any term of imprisonment in excess of 10 days. Each day an offense continues shall be deemed a separate offense.

F. Violations of this Chapter are hereby declared to be a nuisance which may be abated by the City in any lawful manner. (Ord. 4, §1, 1999)

Chapter 17.68

SIGN REGULATIONS

Sections:

17.68.010 Compliance required. It shall be unlawful to erect or maintain any sign except in compliance with the requirements of this Chapter. Signs not in compliance with the provisions of this Chapter are hereby declared to be a nuisance which may be abated by the City in any lawful manner. Any sign on City property, including the right-of-way of Highways 50, 348, and 92, in violation of this Chapter may be confiscated by the City without notice. (Ord. 8 §1(16-17)(part), 1976; Ord. 32 §1(part), 1995)

17.68.020 Signs allowed without a permit. The following may be erected, maintained and used without a sign permit as long as they are properly maintained in accordance with the requirements of this Section 17.68.020 and Section 17.68.060 and with other applicable requirements of this Chapter, State law and City ordinances and regulations, and are not prohibited by Sections 17.68.030 or 17.68.040.

A. Official traffic control devices, signs and notices erected, owned and maintained by the United States, the State of Colorado, the City of Delta, or any of their political subdivisions for official government purposes; and flags of any such political subdivisions, unless used for the purpose of promoting commercial activity.

B. One or more signs with an aggregate sign face area of 10 square feet or less for the premises upon which they are located.

C. Works of art unless they are used to convey commercial speech.

D. Temporary decorations, displays, pennants, banners and flags, which are customarily displayed and associated with hunting season, civic events, or holidays.

E. Public utility warning signs, construction warning signs, and signs warning of other hazards, with no sign face larger than 10 square feet in area.

F. Identification signs incidental to the identification and use of vehicles attached to the vehicle.

G. Traffic control devices with no sign face larger than ten square feet.

H. Temporary real estate "For Sale" or "For Rent" signs with aggregate sign face area of no more than ten square feet. Such signs shall come down within 24 hours of the closing of the sale or lease. Subdivisions, Planned Unit Developments, and similar developments with more than one lot or unit being marketed together may utilize a single "For Sale" sign, with no more than 65 square feet of aggregate sign space area, in lieu of the individual signs allowed hereinabove on each lot or unit. This larger sign can be used until such time as 60 percent of the total lots or units in such development have been sold. One of these larger signs may be used at each street intersection accessing such development, or at one location within the development.

I. Signs within buildings, and temporary signs attached to the inside of a window.

J. Up to four temporary signs per premises per year with a maximum area of any sign face of ten square feet. No single sign shall be in place for more than 30 days per year.

K. Signs not visible from off of the premises upon which they are located.

L. Temporary signs utilized in association with the initial operation of a business during a period from ten (10) days before the business opening, until twenty (20) days after the business opening.

M. Political advertising signs used for campaigning and other purposes related to the promotion of political issues, candidates for public office and other matters to be decided in particular public elections shall be allowed, for a reasonable time period to extend from not more than one hundred eighty (180) days before and not more than ten days after, the pertinent public election in which the office, issue or ballot question addressed by the signs are to be decided. No such signs may be placed within the developed areas occupied by any street, alley, sidewalk, parking area or other public facility, including medians; except that the owners of private property adjoining any public sidewalk or street may maintain such signs for the aforementioned limited period of time within any undeveloped portion of the public right-of-way lying between the edge of the sidewalk or street curbing and their adjoining private land. Any political advertising signage located upon any individual parcel or area of privately owned real property, including any area of adjoining public property allowed by the preceding sentence, shall, in no event, exceed thirty-two (32) square feet in the aggregate and shall not be placed or maintained in any public or private areas where it will pose an obstruction to visibility and thus a safety hazard to motorists and/or pedestrians, as reasonably determined under the City of Delta's Design Standards and Specifications. Ord. 8 §1(16-17)(part), 1976; Ord. 19, §2(part), 1980; Ord. 32 §1(part). 1995; Ord. 23, §1, 1996; Ord. 43, §1 & §2, 2001; Ord. 9, §13, 2004; Ord. 14, §1, 2012)

17.68.030 Prohibited signs and devices. The following are hereby prohibited if visible off of the premises upon which they are located:

A. Animated, rotating, moving, or flashing signs, except scroll signs with changing written messages, with less than 10 square feet of sign face.

B. Pennants, banners, commercial flags, balloons and other wind and air-powered devices resembling balloons, except when used for civic events for a maximum period of ten (10) consecutive days or when otherwise used as a temporary sign pursuant to Subsection 17.68.020L. No such pennant, flag, balloon or other wind or air-powered device resembling a balloon shall be used or displayed at a height more than twenty (20) feet above ground level. This Subsection B. shall not apply to balloons having a diameter of no more than twenty-four (24) inches, or to pennants, banners or flags having a length or width of no more than eighteen (18) inches, or to official City

banners, or to flags protected under the United States constitution, including those emblematic of the United States, any State, or any branch of the Armed Forces of the United States.

C. Portable or wheeled signs and advertising devices located outside any building, except for temporary signs allowed pursuant to Subsection 17.68.020(J), or signs allowed pursuant to Section 17.68.080.

D. The operation of search lights to promote business activities.

E. Repealed. (Ord. 8 §1(16-17)(part), 1976; Ord. 32 §1(part), 1995; Ord. 43 §3, 2001; Ord. 12 §1, 2006; Ord. 38 §3, 2006; Ord. 14, §2, §3, 2012)

17.68.040 Off premise signs restricted. A sign may identify or advertise only that activity or use conducted upon or related to the premises upon which the sign is located except in the following circumstances:

A. Official City-owned and maintained directional signs for public facilities, which signs may be located on any City-owned property, City controlled public easements and property leased for public purposes by the City.

B. Signs allowed by Subsections 17.68.020(A), (D), (E) and (K).

C. Signs with a message devoted solely to ideological or political speech.

D. Tourist oriented directional signs owned and erected by the Colorado Department of Transportation pursuant to C.R.S. 43-1-420(3), which meet conditions set out in City resolutions as in effect from time to time.

E. Signs allowed pursuant to 17.68.070 or 17.68.080.

F. Signs at athletic fields with the sign face directed toward the playing field and stands.

G. Shopping centers located within the B-2 and B-3 zoning districts, which consist of more than one separate business which are operated as a single center, by virtue of shared access or parking, common ownership, or controlling covenants,

may have a single collective sign related to any or all of the businesses on the shopping center premises, at any place on the center premises.

H. Group identification or directory signs specifically permitted by the City for the collective benefit of churches, service clubs and other civic organizations and special facilities. (Ord. 8 §1(16-17)(part), 1976; Ord. 32 §1(part), 1995; Ord. 43 §5, 2001; Ord. 14, §4, §5, 2012)

17.68.050 Permits.

A. Except for the signs specified in Section 17.68.020, no sign may be erected or structurally altered until a Sign Permit has been issued by the City. Applications for a sign permit shall be submitted to the City on forms supplied by the City accompanied by an application fee as set by City Council.

B. The City shall grant a permit only for signs which will be in compliance with the requirements of this Chapter.

C. 1. In all zoning districts, except the B-2 and B-3 Districts, the total Sign Face Area of signs required to have a permit shall not exceed the lesser of one square foot per foot of street frontage of the premises or 300 square feet; except that a minimum of fifty square feet of sign face area shall be allowed for each separate business. No single business or entity may have a sign with any face area larger than 150 square feet.

2. In B-2 and B-3 zoning districts, the total Sign Face Area of signs required to have a permit shall not exceed one square foot per foot of street frontage of the premises, except that a minimum of 100 square feet of sign face area shall be allowed for each separate business. Provided, however, only one side of any two-faced sign shall be counted towards the total Sign Face Area. No single business or entity may have a sign with any single face of the sign larger than 150 square feet. Shopping centers qualifying for a collective sign pursuant to 17.68.040(G) may count the center's street frontage in lieu of the street frontage of each business to determine allowable sign area for the center and its included businesses.

D. A Building Permit is also required for any structural work associated with a sign.

E. No sign requiring a permit shall be allowed in the R-R, R-1,or R-1A Use Districts, except for permanent subdivision entrance identification signs.

F. Signs advertising accessory home occupations shall also be subject to the limitations of subsection 17.04.240(A)(6).

G. Banners, pennants and flags are not eligible for a sign permit. (Ord. 8 §1(16-17)(part), 1976; Ord. 32 §1(part), 1995; Ord. 4, §3, 1999; Ord. 43 §7, 2001; Ord. 9, §12(part), 2004)

17.68.060 Performance criteria.

A. All signs shall meet the requirements of this Section whether a permit is required or not.

B. All signs shall be maintained in good, legible and safe condition.

C. No sign shall be erected or maintained which creates a traffic or other safety hazard, or which could be mistaken for an official traffic control device.

D. All signs shall be constructed and maintained in accordance with any applicable provisions of the City's building codes and other regulations.

E. All signs shall be erected and maintained in accordance with applicable requirements of State law.

F. No part of any sign attached to or within six feet of a building shall be higher than the ridgeline of the roof or parapet of the building.

G. No sign shall be higher than 35 feet above grade.

H. No sign may be erected or maintained which creates a public or private nuisance, or which unreasonably interferes with the reasonable enjoyment of the adjacent property by reason of unreasonable light, shade or other effects.

I. No sign face shall be larger than 150 square feet in area. No sign shall have more than two sign faces.

J. Signs may be erected only upon property which the sign owner has a legal right to erect such sign. (Ord. 16, 1994; Ord. 32 §1(part), 1995; Ord. 14, §6, 2012)

17.68.070 Signs over City right-of-way.

A. Signs other than signs belonging to the City may be erected over or upon City-owned streets and alley rights-of-way pursuant to a revocable permit issued pursuant to this Section only on the following conditions, in addition to other applicable requirements of this Chapter, including a Section 17.68.050 permit.

B. Signs in B-1 Use District:

1. The sign must be supported and attached to a building located in the B-1 Use District.

2. The sign may extend no more than five feet from the building. A sign may extend no closer than six feet from the curbline. No sign may extend over any roadway or alley.

3. No part of the sign may be less than eight feet above the ground over City right-of-way.

4. No more than one sign per business may extend over the City right-of-way.

5. No sign with its face parallel to the wall of the building to which it is attached, except for those printed on an awning, may extend more than twelve inches from the building, nor more than twelve inches over public property.

6. Plans for signs over City rights-of-way must be submitted reviewed and approved by the City.

7. The revocable permit may be revoked by the City at any time for any reason.

8. Proof of general liability insurance covering the City shall be provided to the City.

9. The sign may identify or advertise only that activity or use conducted upon or related to the property immediately abutting the sign.

C. Subdivision identification signs may be erected on City-owned right-of-way only pursuant to a revocable encroachment permit issued by the City and consistent with the subdivision plat and with appropriate provisions for perpetual maintenance by the property owners of the subdivision in question. (Ord. 32, §1(part), 1995; Ord. 9, §12, 2004)

17.68.080 Sandwich signs.

A. Portable sandwich signs which meet the following criteria shall be allowed on sidewalks flanking Main Street between its intersections with First Street and Thirteenth Streets in the City limits provided, however, that each such sign has been issued the required permit from the City:

1. The sign may have a footprint no larger than 2' x 2' and be no more than 3' tall.

2. All signs, including frames, must be professional quality.

3. The signs may be located only upon sidewalks in a location which will not interfere with the opening of doors of vehicles parked within marked spaces or the ingress and egress of passengers therefrom, and within three feet of the curb.

4. The sign may identify or advertise only that activity or use conducted upon or related to the property immediately abutting the sign.

5. No more than one sign per premises is allowed.

B. An application on forms provided by the City must be submitted along with a fee as set by City Council.

C. The permit shall be revocable by the City at any time in its discretion.

D. The applicant must hold the City harmless and provide general liability insurance to cover the City.

E. The City may confiscate signs on City property which don't comply with applicable requirements without notice.

F. Sandwich signs shall be permitted on private property in any part of the City classified for zoning purposes as a "business district" provided that the sign is sufficiently anchored to the ground to prevent the sign from injuring other persons or damaging other property as a result of being propelled by wind or other forces." All sandwich signs shall be subject to the regular sign permit requirements of this Chapter and shall be included in the computation of maximum signage allowed for each respective property. (Ord. 32 §1(part), 1995; Ord. 14, §7, §8, 2012)

17.68.090 General provisions.

A. The face area of a sign painted or hung on a wall of a building, or on an awning or structure, shall include all the area within a perimeter surrounding all words, symbols, designs and coloring, distinctive from the wall, awning, or structure upon which it is painted or hung.

B. As used in this Section, "Sign" means and includes any object, device or structure which is used to advertise, identify, display, direct, attract attention, or convey any message concerning any object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, designs, symbols,

fixtures, colors, motion, illumination, or projection, and anything else commonly known as a "sign."

C. The intent and purpose of this Chapter is to:

1. Promote the public health, safety, and welfare.

2. Provide a reasonable opportunity on an equitable basis for advertisement and speech by signs.

3. Avoid the unnecessary, excessive, and expensive proliferation of signs.

4. Allow information to be promulgated to the public in a reasonable manner.

5. Protect the natural beauty and aesthetic attributes of the City.

6. Avoid safety or traffic hazards and nuisances. (Ord. 32 §1(part), 1995; Ord. 43 §6, 2001)

17.68.100 Nonconforming signs.

A. Signs which were lawfully erected and maintained in accordance with previously applicable City, County or State regulations which do not comply with all of the regulations of this Chapter as such is amended from time to time may continue to be used and maintained in accordance with the provisions of this Section 17.68.100.

B. All signs shall at all times be maintained in strict conformity with the performance criteria of subsections 17.68.060(B), (C), (D), (E), and (J). Any sign not in compliance with said subsections shall be removed.

C. The right to maintain a nonconforming sign, including frames and supports, shall be terminated and the sign removed or brought into full compliance with this Chapter under the following conditions:

1. Abandonment of the sign, abandonment or termination of the related business, or an interruption in continuance of the business for six months.

2. A violation of any of the provisions of subsection 17.68.100(B).

3. The destruction of the sign, removal of the sign or damage of the sign, such that the cost of replacement or repair is greater than 50 percent of the replacement cost of the original sign.

4. The creation of any additional violation of, or nonconformity with, this Chapter.

D. City may require any sign on City property to be removed at any time in its discretion. (Ord. 32 §1(part), 1995)

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(Repealed Ord. 15, §1, 2012)